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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, January 25, 2011
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 5901

Supplemental Standards of Ethical Conduct for Employees of the Federal Labor Relations Authority

AGENCY: Federal Labor Relations Authority.

ACTION: Interim rule with request for comments.

SUMMARY: The Federal Labor Relations Authority (FLRA), with the concurrence of the Office of Government Ethics (OGE), intends to issue an interim regulation for employees of the FLRA that supplements the executive-branch-wide Standards of Ethical Conduct (Standards) issued by OGE. The supplemental regulation: Establishes procedures for seeking prior approval for outside employment; prohibits certain outside employment; and requires employees who disqualify themselves from participation in particular matters for ethical reasons to notify their supervisors and the Designated Agency Ethics Official (DAEO) of that disqualification.

DATES: This interim rule is effective January 19, 2011. Written comments must be received on or before February 18, 2011.

ADDRESSES: Mail or deliver comments to the Office of the Solicitor, Federal Labor Relations Authority, 1400 K Street, NW., Room 300, Washington, DC 20424. Comments may also be e-mailed to *solmail@flra.gov.*

FOR FURTHER INFORMATION CONTACT: Rosa M. Koppel, Solicitor, at *rkoppel@flra.gov,* fax: (202) 343–1007.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 1992, OGE published the Standards of Ethical Conduct for Employees of the Executive Branch (Standards), which became effective on February 3, 1993. The Standards, as corrected and amended, are codified at 5 CFR part 2635. The Standards set uniform ethical conduct standards applicable to all executive branch personnel.

Section 2635.105 of the Standards authorizes agencies, with the concurrence of OGE, to publish agency-specific supplemental regulations that are necessary to properly implement their respective ethics programs. The FLRA, with OGE's concurrence, has determined that the following interim supplemental rule is necessary for successful implementation of its ethics program.

Analysis of the Regulations

Section 5901.101 General

Section 5901.101 explains that the regulations in part 5901 apply to employees of the FLRA and supplement the OGE Standards. The section also includes cross-references to other issuances applicable to FLRA employees, including the regulations concerning executive branch financial disclosure, financial interests, and employee responsibilities and conduct, as well as implementing FLRA guidance and procedures issued in accordance with the OGE Standards.

Section 5901.102 Prior Approval for Outside Employment

In accordance with 5 CFR 2635.803, the FLRA has determined it is necessary for the purpose of administering its ethics program to require its employees to obtain approval before engaging in permissible outside employment or activities. This approval requirement will help to ensure that potential ethical problems are resolved before employees begin outside employment or activities that could involve a violation of applicable statutes and standards of conduct.

Section 5901.102(a) provides that an FLRA employee, other than a special Government employee (*i.e.,* employees expected to work no more than 130 days in any consecutive 365-day period), must obtain advance written approval from the DAEO or the Alternate DAEO before engaging in any outside employment, except to the extent that the FLRA DAEO or the Alternate DAEO has issued an instruction or manual, pursuant to section 5901.102(e), exempting an activity or class of activities from this requirement.

Section 5901.102(b) defines outside employment to cover any form of non-Federal employment or business relationship involving the provision of personal services. It includes writing when done under an arrangement with another person or entity for production or publication of the written product. It does not, however, include participation in the activities of nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organizations, unless such activities are for compensation other than reimbursement of expenses, or the organization's activities are devoted substantially to matters relating to the employee's official duties as defined in 5 CFR 2635.807(a)(2)(i)(B) through (E) and the employee will serve as officer or director of the organization, or the activities will involve the provision of consultative or professional services. Consultative services means the provision of personal services by an employee, including the rendering of advice or consultation, which requires advanced knowledge in a field of science or learning customarily acquired by a course of specialized instruction and study in an institution of higher education, hospital, or similar facility. Professional services means the provision of personal services by an employee, including the rendering of advice or consultation, which involves application of the skills of a profession as defined in 5 CFR 2636.305(b)(1), or involves a fiduciary relationship as defined in 5 CFR 2636.305(b)(2).

Section 5901.102(c) sets out the procedures for requesting prior approval to engage in outside employment initially, or within seven calendar days of a significant change in the nature or scope of the outside employment or the employee's official position within the FLRA. It also sets out the standard to be applied by the DAEO or the Alternate DAEO in acting on requests for prior approval of outside employment as broadly defined by Sec. 5901.102(b). Approval shall be granted only upon a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

Section 5901.102(d) prohibits FLRA employees other than special Government employees from advising or

preparing an individual or group in any matter relating to labor relations, or from engaging in any other outside employment that conflicts with official Government duties or responsibilities.

However, consistent with Federal policy embodied in the exceptions to the representation bans contained in 18 U.S.C. 203 (prohibition of compensation for representational services in a matter in which the United States is involved) and 205 (prohibition of representational services, with or without compensation, in a matter in which the United States is involved), nothing in the section precludes representation or advice that is: (1) Rendered, with or without compensation, and with the prior approval of the official responsible for the employee's appointment, to specified relatives or to an estate for which an employee serves as a fiduciary; or (2) provided, without compensation, to an employee subject to disciplinary, loyalty, or other personnel administration proceedings.

Section 5901.102(e) provides that the FLRA DAEO or the Alternate DAEO may issue instructions or manual issuances governing the submission of requests for approval of outside employment, which may exempt categories of employment from the prior approval requirement of this section based on a determination that employment within those categories would generally be approved and is not likely to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635. The instructions or issuances may include examples of outside employment that are permissible or impermissible consistent with this part and 5 CFR part 2635.

Section 5901.103(a) requires an FLRA employee who disqualifies himself or herself from participation in a particular matter because of a financial interest to provide written notice of disqualification to his or her supervisor and the DAEO notwithstanding the guidance in 5 CFR 2635.402(c)(1) and (2). Under that guidance, disqualification can be accomplished without prior written notice.

Section 5901.103(b) requires an FLRA employee who disqualifies himself or herself from participation in a particular matter to ensure impartiality to provide written notice of disqualification to his or her supervisor and the DAEO notwithstanding the guidance in 5 CFR 2635.502(e)(1) and (2). Under that guidance, disqualification can be accomplished without prior written notice.

Section 5901.103(c) requires an FLRA employee who disqualifies himself or herself from participation in a particular matter affecting prospective employers to provide written notice of disqualification to his or her supervisor and the DAEO notwithstanding the guidance in 5 CFR 2635.604(b) and (c).

Section 5901.103(d) permits an FLRA employee to withdraw, in writing, notice under paragraphs (a), (b), or (c) of this section upon deciding that disqualification from participation in a particular matter is no longer required.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b), the FLRA finds good cause exists for waiving the general notice of proposed rulemaking and opportunity for public comment as to this proposed rule. Notice and comment before the effective date are being waived because this rule concerns matters of agency organization, practice and procedure. However, written comments, which must be received by February 18, 2011 can be submitted regarding this interim rule; any such comments will be considered before this rule is adopted as final.

Executive Orders 12866 and 12988

Because this rule relates to FLRA personnel, it is exempt from the provisions of Executive Orders Nos. 12866 and 12988.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FLRA has determined that this regulation, as amended, will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1995

The Paperwork Reduction Act, 44 U.S.C. chapter 35, does not apply because this rulemaking does not contain information collection requirements subject to the approval of the Office of Management and Budget.

Congressional Review Act

The FLRA has determined that this rule is not a rule as defined in 5 U.S.C. 804, and thus, does not require review by Congress.

List of Subjects in 5 CFR Part 5901

Conflict of interest, Government employees.

■ Accordingly, for the reasons set forth in the preamble, the FLRA, with the concurrence of the OGE, is amending title 5 of the Code of Federal Regulations by adding a new chapter XLIX consisting of part 5901, to read as follows:

CHAPTER XLIX—FEDERAL LABOR RELATIONS AUTHORITY

PART 5901—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL LABOR RELATIONS AUTHORITY

Sec.

Authority: 5 U.S.C. 7105; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.803.

§ 5901.101 General.

(a) Applicability. In accordance with 5 CFR 2635.105, and unless provided elsewhere in this part, these regulations apply to all employees of the Federal Labor Relations Authority (FLRA), including employees of the Federal Service Impasses Panel and the Office of the General Counsel, and supplement the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) contained in 5 CFR part 2635.

(b) Cross-references. In addition to 5 CFR part 2635 and this part, FLRA employees are required to comply with implementing guidance and procedures issued by the FLRA in accordance with 5 CFR 2635.105(c). FLRA employees are also subject to the regulations concerning executive branch financial disclosure contained in 5 CFR part 2634, the regulations concerning executive branch financial interests contained in 5 CFR part 2640, and the regulations concerning executive branch employee responsibilities and conduct contained in 5 CFR part 735.

(c) Agency designees. The Designated Agency Ethics Official (DAEO) and the Alternate Designated Agency Ethics Official (Alternate DAEO) shall serve as the FLRA's designees to make determinations, grant approvals, and take other actions under 5 CFR part 2635 and this part.

§ 5901.102 Prior approval for outside employment.

(a) General requirement. Any FLRA employee, excluding all special Government employees (*i.e.,* employees expected to work no more than 130 days in any 365-day period), shall obtain prior written approval from the DAEO or the Alternate DAEO before engaging in any outside employment, except to the extent that the DAEO or the Alternate DAEO has issued an instruction or manual pursuant to

paragraph (e) of this section. Nonetheless, special Government employees remain subject to other statutory and regulatory provisions governing their outside activities, including 18 U.S.C. 203(c) and 205(c), as well as applicable provisions of 5 CFR part 2635.

(b) Definition of "employment." (1) For the purposes of this section, "employment" means any form of non-Federal employment or business relationship involving the provision of personal services by the employee for direct, indirect, or deferred compensation other than reimbursement of actual and necessary expenses. It also includes, irrespective of compensation, the following outside activities:

(i) Providing personal services as a consultant or professional, including service as an expert witness or as an attorney;

(ii) Providing personal services to a for-profit entity as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, or speaker; and

(iii) Writing when done under an arrangement with another person for production or publication of the written product.

(2) The definition does not include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service or civic organization, unless:

(i) The employee will receive compensation other than reimbursement of expenses;

(ii) The organization's activities are devoted substantially to matters relating to the employee's official duties as defined in 5 CFR 2635.807(a)(2)(i)(B) through (E) and the employee will serve as officer or director of the organization; or

(iii) The activities will involve the provision of consultative or professional services. Consultative services means the provision of personal services by an employee, including the rendering of advice or consultation, which requires advanced knowledge in a field of science or learning customarily acquired by a course of specialized instruction and study in an institution of higher education, hospital, or similar facility. Professional services means the provision of personal services by an employee, including the rendering of advice or consultation, which involves application of the skills of a profession as defined in 5 CFR 2636.305(b)(1) or involves a fiduciary relationship as defined in 5 CFR 2636.305(b)(2).

(c) Procedure for requesting approval.

(1) Requests for approval of outside employment shall be sent to either the DAEO or the Alternate DAEO through the employee's normal supervisory channels and shall include the following information:

(i) The name of the person, group, or organization for which the outside employment is proposed to be performed;

(ii) The nature of the service to be performed and the position's title, if any;

(iii) The proposed hours of work (if regularly scheduled) and the approximate dates of employment;

(iv) The employee's explanation as to whether the proposed outside employment (including teaching, speaking, or writing) will implicate in any way information obtained as a result of the employee's official Federal position; and

(v) The employee's explanation that no Federal property, resources, or facilities not available to the general public will be used in connection with the outside employment.

(2) Upon a significant change in the nature or scope of the outside employment or in the employee's official position within the FLRA, the employee must, within seven calendar days of the change, submit a revised request for approval.

(3) The DAEO or the Alternate DAEO shall grant approval only on a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including part 2635 of this title, or paragraph (d) of this section. The DAEO or the Alternate DAEO will advise the employee, in writing, of the approval or denial of the request for outside employment and will maintain a record of the written request and determination.

(d) Prohibited outside employment.

(1) Employees shall not engage in:

(i) Rendering legal advice regarding, or preparing an individual or group in any matter relating to, labor relations in either the private or public sector, outside the employee's official duties. This prohibition shall not apply to a special Government employee unless he or she:

(A) Has participated personally and substantially as a Government employee or special Government employee in the same matter; or

(B) Has served with the FLRA 60 days or more during the immediately preceding period of 365 consecutive days; or

(C) Any other outside employment that conflicts with the employee's official Government duties or responsibilities.

(2) Exceptions. Nothing in this paragraph (d) prevents an employee from:

(i) Acting, with or without compensation, as an agent or attorney for, or otherwise representing, the employee's parents, spouse, child, or any other person for whom, or for any estate for which, the employee is serving as guardian, executor, administrator, trustee, or other personal fiduciary to the extent permitted by 18 U.S.C. 203(d) and 205(e), or from providing advice or counsel to such persons or estate; or

(ii) Acting, without compensation, as an agent or attorney for, or otherwise representing, any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings, to the extent permitted by 18 U.S.C. 205.

(e) DAEO's and Alternate DAEO's responsibilities. The FLRA DAEO or Alternate DAEO may issue instructions or manual issuances governing the submission of requests for approval of outside employment. The instructions or manual issuances may exempt categories of employment from the prior approval requirement of this section based on a determination that employment within those categories of employment would generally be approved and is not likely to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635. The DAEO or Alternate DAEO may include in these instructions or issuances examples of outside employment that are permissible or impermissible consistent with this part and 5 CFR part 2635.

§ 5901.103 Procedure for accomplishing disqualification.

(a) Disqualifying financial interest. An FLRA employee who is required, in accordance with 5 CFR 2635.402(c), to disqualify himself or herself from participation in a particular matter to which he or she has been assigned shall, notwithstanding the guidance in 5 CFR 2635.402(c)(1) and (2), provide written notice of disqualification to his or her supervisor and the DAEO upon determining that he or she will not participate in the matter.

(b) Disqualification to ensure impartiality. An FLRA employee who is required, in accordance with 5 CFR 2635.502(e), to disqualify himself or herself from participation in a particular matter involving specific parties to which he has been assigned shall, notwithstanding the guidance in 5 CFR 2635.502(e)(1) and (2), provide written

notice of disqualification to his or her supervisor and the DAEO upon determining that he will not participate in the matter.

(c) Disqualification from matters affecting prospective employers. An FLRA employee who is required, in accordance with 5 CFR 2635.604(a), to disqualify himself or herself from participation in a particular matter to which he has been assigned shall, notwithstanding the guidance in 5 CFR 2635.604(b) and (c), provide written notice of disqualification to his or her supervisor and the DAEO upon determining that he will not participate in the matter.

(d) Withdrawal of notification. An FLRA employee may withdraw written notice under paragraphs (a), (b), or (c) of this section upon deciding that disqualification from participation in the matter is no longer required. A withdrawal of notification shall be in writing and provided to the employee's supervisor and the DAEO.

Dated: December 10, 2010.

Carol Waller Pope,

Chairman, Federal Labor Relations Authority.

Approved on this date: December 13, 2010.

Robert I. Cusick,

Director, Office of Government Ethics.

[FR Doc. 2010–31874 Filed 12–17–10; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 103, 214, and 274a

[CIS No. 2758–08; DHS Docket No. USCIS–2008–0035]

RIN 1615–AB75

E–2 Nonimmigrant Status for Aliens in the Commonwealth of the Northern Mariana Islands With Long-Term Investor Status

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Final rule.

SUMMARY: This final rule amends Department of Homeland Security (DHS) regulations governing E–2 nonimmigrant treaty investors to establish procedures for classifying long-term investors in the Commonwealth of the Northern Mariana Islands (CNMI) as E–2 nonimmigrants. This final rule implements the CNMI nonimmigrant investor visa provisions of the Consolidated Natural Resources Act of 2008 extending the immigration laws of the United States to the CNMI.

DATES: This rule is effective January 19, 2011.

FOR FURTHER INFORMATION CONTACT: Steven W. Viger, Office of Policy & Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., 2nd Floor, Washington, DC 20529–2140, telephone (202) 272–1470.

SUPPLEMENTARY INFORMATION:

I. Background

The Commonwealth of the Northern Mariana Islands (CNMI) is a U.S. territory located in the western Pacific that has been subject to most U.S. laws for many years. However, the CNMI has administered its own immigration system under the terms of its 1976 covenant with the United States. *See* A Joint Resolution to Approve the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (the Covenant Act), Public Law 94–241, sec. 1, 90 Stat. 263, 48 U.S.C. 1801 note (1976). On May 8, 2008, President Bush signed into law the Consolidated Natural Resources Act of 2008 (CNRA). Public Law 110–229, 122 Stat. 754 (2008). Title VII of the CNRA extends U.S. immigration laws to the CNMI with transition provisions unique to the CNMI. *See* 48 U.S.C. 1806; 48 U.S.C.A. 1806 note. The stated purpose of the CNRA is to ensure effective border control procedures, to properly address national security and homeland security concerns by extending U.S. immigration law to the CNMI (phasing-out the CNMI's nonresident contract worker program while minimizing to the greatest extent practicable the potential adverse economic and fiscal effects of that phase-out), to maximize the CNMI's potential for future economic and business growth, and to assure workers are protected from the potential for abuse and exploitation. *See* sec. 701 of the CNRA, 48 U.S.C.A. 1806 note.

Since 1978, the CNMI has admitted a substantial number of foreign workers from China, the Philippines, and other countries through an immigration system that provides a permit program for foreigners entering the CNMI, such as visitors, investors, and workers. In fact, foreign workers under this system represent a majority of the CNMI labor force. Such workers outnumber U.S. citizens and other local residents in private sector employment in the CNMI. Currently, the CNMI faces serious economic challenges, including the total collapse of the territory's $1 billion a year garment industry and a substantial decline in its tourism industry.[1] The result has been a decrease in the CNMI government budget from $217,964,866 in 2005 to $132,565,000 in 2011.

Title VII of the CNRA was to become effective approximately one year after the date of enactment, subject to certain transition provisions unique to the CNMI. On March 31, 2009, DHS announced that the Secretary of Homeland Security, in her discretion under the CNRA, had extended the effective date of the transition program from June 1, 2009 (the first day of the first full month commencing one year from the date of enactment of the CNRA) to November 28, 2009. DHS Press Release, "DHS Delays the Transition to Full Application of U.S. Immigration Laws in the Commonwealth of the Northern Mariana Islands" (Mar. 31, 2009), *http://www.dhs.gov/ynews/releases/pr_1238533954343.shtm.* The transition period concludes on December 31, 2014. The law also contains several CNMI-specific provisions affecting foreign workers and investors during the transition period. These temporary provisions are intended to provide for an orderly transition from the CNMI permit system to the Immigration and Nationality Act (INA) and to mitigate potential harm to the CNMI economy before these foreign workers and investors are required to obtain U.S. immigrant or nonimmigrant status. *See* sec. 701 of the CNRA, 48 U.S.C.A. 1806 note; 48 U.S.C. 1806(c), (d).

Among the CNMI-specific provisions applicable during the transition period is a provision authorizing the Secretary of Homeland Security to classify an alien foreign investor in the CNMI as a CNMI-only "E–2" nonimmigrant investor under section 101(a)(15)(E)(ii) of the INA, 8 U.S.C. 1101(a)(15)(E)(ii). 48 U.S.C. 1806(c). This status is provided upon application of the alien, notwithstanding the treaty requirements otherwise applicable. *Id.* Eligible investors are those who:

- Were admitted to the CNMI in long-term investor status under CNMI immigration law before the transition program effective date;
- Have continuously maintained residence in the CNMI under long-term investor status;

[1] GAO, *Commonwealth of the Northern Mariana Islands: Pending Legislation Would Apply U.S. Immigration Law to the CNMI with a Transition Period,* GAO–08–466 (Washington, DC: Mar. 2008); GAO, *U.S. Insular Areas: Economic, Fiscal, and Accountability Challenges,* GAO–07–119 (Washington, DC: Dec. 12, 2006); and GAO, *Commonwealth of the Northern Mariana Islands: Serious Economic, Fiscal, and Accountability Challenges,* GAO–07–746T (Washington, DC: Apr. 19, 2007).

• Are otherwise admissible to the United States under the INA; and

• Maintain the investment(s) that formed the basis for the CNMI long-term investor status. *Id.*

II. Proposed Rule

In accordance with the CNRA, on September 14, 2009, DHS proposed the requirements and procedures for foreign investors in the CNMI to obtain nonimmigrant status within the E–2 treaty investor classification ("E–2 CNMI Investors"). *See* 74 FR 46938. DHS provided a 30-day comment period in the proposed rule, which ended on October 14, 2009. The comments received during the comment period are discussed below.

The proposed rule preamble described the CNMI's immigration programs for investors that existed before November 28, 2009. *Id.* at 46939. The proposed rule also described the current United States E–2 treaty investor nonimmigrant status. *Id.* at 46940; *see* INA sec. 101(a)(15)(E)(ii), 8 U.S.C. 1101(a)(15)(E)(ii); 8 CFR 214.2(e). DHS proposed the procedures for foreign investors in the CNMI to obtain nonimmigrant status within the E–2 treaty investor classification, including the criteria that must be met and the evidence that must be submitted in order to be eligible for E–2 CNMI Investor nonimmigrant status. *See* 74 FR 46938, 46949 (Sept. 14, 2009).

As stated in the proposed rule, the E–2 CNMI Investor program is intended to provide a smooth transition for existing CNMI investors and to mitigate potential adverse consequences to the CNMI economy if the current investments could not otherwise be maintained as a basis for immigration status during the transition period. At the end of the transition period, the E–2 CNMI Investor classification will cease to exist. E–2 CNMI Investors and qualifying spouses and children must qualify for and obtain a new immigrant or nonimmigrant status under the INA in order to remain in the CNMI or to enter the CNMI after a departure.

III. Final Rule

This rule provides the procedures to obtain status as an E–2 CNMI Investor. The final rule adopts most of the regulations set forth in the proposed rule. The rationale for the proposed rule and the reasoning provided in its preamble remain valid with respect to these regulatory amendments, and DHS adopts such reasoning in support of the promulgation of this final rule. DHS has modified some of the proposed provisions for the final rule in response to the public comments received on the proposed rule. These changes are explained in detail in the summary of comments and DHS responses below and are briefly summarized as follows:

1. The proposed rule provided that a CNMI Long-Term Business Entry Permit holder with a CNMI Long-Term Business Certificate would be eligible for a period of two years on the basis of the alien's minimum $150,000 investment. The final rule reduces the minimum investment to $50,000. New 8 CFR 214.2(e)(23)(iii)(A)(2).

2. The final rule provides a two-year application period after the effective date of the final rule. *See* new 8 CFR 214.2(e)(23)(v). The proposed rule had proposed that applicants be required to apply for E–2 CNMI Investor status within two years of the beginning of the transition period. This change is one of a number of updating changes to reflect the fact that the transition program effective date is now in the past. Other such changes include: Changing references to the transition program effective date and to CNMI-issued immigration statuses to the past tense, as those statuses no longer are in effect after that date; changing the reference date to CNMI laws in effect from May 8, 2008 (CNRA date of enactment) to November 27, 2009 (day before transition program effective date); and removing the definition of "transition program effective date" from new 8 CFR 214.2(e)(23)(ii) as that definition is now in the general definitions section of the immigration regulations at 8 CFR 1.1(bb). *See* new 8 CFR 214.2(e)(23)(v).

3. The final rule adds the phrase "or any successor body" to the provision describing where a denial may be appealed. The proposed rule had proposed that denied petitions may be appealed to the USCIS Administrative Appeals Office. *See* new 8 CFR 214.2(e)(23)(ix).

4. The final rule clarifies the authority and process by which applicants in the CNMI can be granted E–2 CNMI Investor status in the CNMI without having to travel abroad to obtain a nonimmigrant visa. *See* new 8 CFR 214.2(e)(23)(xvi).

5. The final rule adds the term "continuous" to clarify the period of absence that would break continuity of residence under the definition of "continuously maintained residence in the CNMI." *See* new 8 CFR 214.2(e)(23)(ii)(D).

6. The final rule makes technical changes to the fee waiver provisions, in order to conform the rule to the reorganized format of 8 CFR 103.7 provided in the DHS final rule, "U.S. Citizenship and Immigration Services Fee Schedule," 75 FR 58962 (September 24, 2010). *See* new 8 CFR 103.7(c)(3)(xix).

IV. Comments Received on the Proposed Rule

During the 30-day comment period, DHS received 13 comments from a variety of individuals and organizations, including the CNMI Governor's Office, the Saipan Chamber of Commerce, a former Senator of the CNMI, a Member of Congress, and other interested organizations and individuals.

DHS considered the comments received and all other materials contained in the docket in preparing this final rule. The final rule does not address comments that were beyond the scope of the proposed rule, including those seeking changes to United States statutes, changes to regulations or petitions outside the scope of the proposed rule, or changes to the procedures of other DHS components or agencies.

All comments and other docket material may be reviewed at the Federal Docket Management System (FDMS) at *http://www.regulations.gov*, docket number USCIS–2008–0035.

A. Summary of Comments

Of the 13 comments USCIS received, two comments supported the proposals in the rule as a whole and welcomed DHS's efforts to minimize, to the greatest extent practicable, potential adverse economic and fiscal effects of federalization and to maximize the CNMI's potential for future economic and business growth.

Most commenters expressed concerns over specific provisions in the proposed rule, such as: The requirement to obtain a visa to re-enter the CNMI; the minimum investment of $150,000 for Long-Term Business Investors; and the continuous residence requirement. Several commenters wrote that certain investors would be ineligible for the E–2 CNMI Investor visa, that the rule will cause severe economic harm to the CNMI economy, and that DHS is incorrect in its interpretation of the effect of an extension of the transition period.

B. Comments

The specific comments are organized by subject matter and addressed below.

1. Visa Requirement (Travel and Reentry)

Two commenters disagreed with the proposed requirement that investors must obtain a visa to re-enter the CNMI. Commenters stated that obtaining a visa is an expensive and time-consuming process. DHS is aware of the public's

concerns regarding the cost and time involved in obtaining a U.S. visa. However, visa fees and visa processing times are managed by the Department of State (DOS). After careful consideration, DHS is maintaining the visa requirement for investors who are abroad and seek to be admitted to the CNMI. A primary purpose of the CNRA is "to ensure that effective border control procedures are implemented and observed, and that national security and homeland security issues are properly addressed." CNRA sec. 701(a), 48 U.S.C.A. 1806 note. The visa process is an important aspect of effective border control. Therefore, DHS does not consider it appropriate as a matter of travel security and immigration policy to waive visa-based grounds of inadmissibility for those E–2 CNMI Investors who travel abroad and wish to return to the CNMI.

However, DHS is able to address to a significant extent the general concern reflected in the comments about visas and travel costs by clarifying in the final rule the authority and process by which applicants who are already within the CNMI may be determined to be admissible to the United States and granted E–2 CNMI Investor status. For CNMI investors, DHS is providing beneficiaries of an E–2 CNMI petition in the CNMI with a grant of E–2 CNMI Investor status without requiring that they depart the CNMI in order to obtain a visa. In other words, an alien in the CNMI who is eligible for E–2 status will not have to make a trip abroad solely for the purpose of obtaining a visa, but if the alien is otherwise abroad, he or she will have to obtain a visa in order to travel to the CNMI.

DHS notes that there is a distinct difference between a visa and a status. DOS issues a visa at a U.S. Embassy or consulate office abroad. A visa, placed in the alien's passport, allows an alien to travel to a port of entry and apply for admission to the United States in a particular status. While having a visa does not guarantee admission to the United States, it does indicate that a consular officer has determined that the alien is eligible to apply for admission for a specific purpose.

DHS is responsible for all admissions into the United States. If an alien seeking admission to the United States is admissible, DHS admits the alien and grants his or her status in the United States. The specified status controls the period of stay and conditions of such stay. In most cases, DHS grants status at the port of entry. As previously indicated, DHS is providing beneficiaries of an E–2 CNMI petition in the CNMI with a grant of E–2 CNMI Investor status without requiring that they depart the CNMI. The grant of such status is within DHS' purview. Visa issuance is handled by DOS.

2. Visa Issuance

One commenter stated that the Department of State should issue visas in the CNMI and allow dependents to be exempt from applying in person for their E–2 CNMI Investor visas. Another commenter wrote that the E–2 CNMI Investor visa should allow for multiple entries.

DHS cannot address these particular suggestions in this rule. Visa issuance is a function of the Department of State, and thus beyond the scope of this DHS rule. In any case, DHS believes that the concerns about visa issuance and the need for multiple-entry visas are adequately addressed by the waiver provision discussed below.

The Supplementary Information to the proposed rule discussed the fact that E–2 CNMI Investor status could be granted directly to aliens present in the CNMI, unlike aliens abroad seeking that status who first must be issued an E–2 CNMI Investor nonimmigrant visa by the Department of State at a consular post abroad and thereafter seek admission in E–2 CNMI Investor status. *See* 74 FR 46940; proposed 8 CFR 214.2(e)(23)(vii). The proposed regulatory language, however, was not explicit about how that would be done consistent with the requirement that the alien be admissible to the United States. Thus, in order to give additional assurance and direction on this point to the affected public and to USCIS adjudicators, the final rule clarifies that a waiver of inadmissibility under section 212(d)(3)(A)(ii) of the INA may be granted to an eligible alien seeking an initial grant of E–2 CNMI Investor status from DHS while in the CNMI. *See* new 8 CFR 214.2(e)(23)(xvi). Such aliens will necessarily lack an E–2 CNMI Investor nonimmigrant visa issued by the Department of State, and are thus inadmissible under section 212(a)(7)(B)(i)(II) of the INA; they also by definition will (unless changing to E–2 CNMI Investor status from another nonimmigrant status under the INA) be aliens present in the United States without admission or parole, and thus inadmissible under section 212(a)(6)(A) of the INA. Therefore, the rule allows for a waiver of those two grounds of inadmissibility for aliens with appropriate documentation.

This waiver provision is based upon the specific language in section 212(d)(3)(A)(ii) that in the case of an alien "in possession of appropriate documents" who is seeking admission as a nonimmigrant, most grounds of inadmissibility may be discretionarily waived. INA sec. 212(d)(3)(A)(ii), 8 U.S.C. 1182(d)(3)(A)(ii). In the unique situation of the CNMI, considering the express application of the nonimmigrant investor visa provision of the CNRA to aliens lawfully present in the CNMI in a non-INA status and without a previous reason to have needed to obtain a U.S. nonimmigrant visa from the Department of State, and mindful that the stated goal of the CNRA is to mitigate potential adverse consequences of transition to the extent possible, DHS concludes that the "appropriate documentation" requirement for the waiver may be met by aliens who meet the documentary requirements for petition approval described in new 8 CFR 214.2(e)(23)(vi). Those requirements include, but are not limited to, evidence of prior admission in CNMI investor status. As a conforming change, new 8 CFR 214.2(e)(23)(vi) has been titled "Appropriate documents" instead of the previous "Accompanying evidence," and a valid unexpired passport is required as necessary evidence. *Id.*

In the case of spouses and children present in the CNMI who are seeking a derivative grant of E–2 Investor nonimmigrant status based upon a principal investor's approved petition, to satisfy the "appropriate documents" requirement for a section 212(d)(3)(A)(ii) waiver of inadmissibility under INA sections 212(a)(6)(A)(i) and 212(a)(7)(B)(i)(II), the applicant must present (1) a valid unexpired foreign passport and (2) evidence that the spouse or child is lawfully present in the CNMI under section 1806(e) of title 48, U.S. Code (the so-called "grandfather provision" applicable until not later than November 27, 2011 to aliens issued "umbrella permits" or other authorization by the CNMI government prior to November 28, 2009). Such evidence may include evidence of a grant of parole by USCIS or a grant of parole by DHS pursuant to a grant of advance parole by USCIS under DHS policy in furtherance of the grandfather provision (in other words, parole granted to aliens residing in the CNMI as of November 28, 2009, rather than parole granted to arriving aliens for other reasons). *See* new 8 CFR 214.2(e)(23)(xvi). The intended beneficiaries of this discretionary waiver are spouses and children lawfully residing in the CNMI under the grandfather provision. The reference to parole documents is included in the final rule because of uncertainty about what type of CNMI documentation may

be in the possession of these aliens, since they are not themselves investors and may not have "umbrella permits" or other CNMI-issued work authorization documents. Furthermore, USCIS has used parole and advance parole broadly with respect to lawfully present aliens in the CNMI since the transition date for humanitarian reasons, and thus DHS parole documents may be the best way to identify some members of the "grandfather" provision group.

3. Eligible Long-Term CNMI Investors

Six comments opposed or offered suggestions on the proposed list of CNMI investor categories that would be eligible for the E–2 CNMI Investor visa.

(a) High Level Managers

One commenter stated that the proposed regulation omits high level managers from the eligible categories of CNMI long-term investors. The commenter also stated that these managers may not be eligible for L visas. If granted upon petition by an employer, the L–1A Intracompany Transferee Executive or Manager nonimmigrant classification enables a U.S. employer to transfer an eligible executive or manager from one of its affiliated foreign offices to one of its offices in the United States. INA sec. 101(a)(15)(L), 8 U.S.C. 1101(a)(15)(L); 8 CFR 214.2(l). The commenter suggested that high level managers be eligible for E–2 CNMI Investor status.

The final rule includes all CNMI investors who meet the long-term investor requirement under the CNRA. *See* new 8 CFR 214.2(e)(23)(iii). If a high-level manager is also an investor eligible for E–2 CNMI Investor status, the individual may obtain that status, but the final rule does not provide E–2 CNMI Investor status to employees who are not the actual investors in the approved investment. The final rule cannot go beyond the statute, which specifically provides that CNMI E–2 Investor status is limited to those investors described in 48 U.S.C. 1806(c), and therefore the comment cannot be adopted. High level managers likely are ineligible for long-term investor status because they are not the actual investors. Although high level managers may be ineligible for the E–2 CNMI Investor visa, they may be eligible for either an H–1B or a transitional worker visa. Thus no change is made in the final rule in response to this comment.

(b) Ineligible CNMI Investors

One commenter wrote that hundreds of investors would be left out under the proposed regulation. The comment did not identify which types of investors would not be included in the proposed regulation. Certain categories used by the CNMI, including the short-term business entry permit, the long-term business entry permit, and the 2–Year Japanese Retiree classification, are not eligible for E–2 CNMI Investor status because these categories do not relate to long-term investors, as required by the CNRA. Based upon a review of CNMI investor classifications, DHS has included all long-term CNMI investors, including retiree investors, in the list of investors eligible for the E–2 CNMI Investor classification. *See* new 8 CFR 214.2(e)(23)(iii).

(c) Grandfathering Long-Term CNMI Investors

One commenter suggested that DHS "grandfather" long-term permit holders for a period of four years without adding new enforcement criteria in order to avoid economic disruption. While grandfathering long-term CNMI permit holders arguably could lessen economic disruption, grandfathering is not an option under the CNRA. Section 702(c) of the CNRA provides for a CNMI investor classification with specific eligibility requirements, to be provided only "upon the application of an alien." 48 U.S.C. 1806(c)(1). In accordance with the eligibility requirements under the CNRA, the E–2 CNMI Investor visa is available to all CNMI investors with valid long-term investor permits. The final rule has been drafted to minimize the potential adverse economic and fiscal effects by applying standards similar to those used by the CNMI government in approving long-term investors in the CNMI. Thus DHS is not adopting this comment.

(d) Minimum Investment for Long-Term Business Investors

Three commenters wrote that the $150,000 minimum investment requirement for Long-Term Business Investors will exclude investors who were granted Long-Term Business Certificates by the CNMI at a lower investment minimum of $50,000. In response to these comments, and in view of the fact that the CNMI government has previously granted Long-Term Business Certificates with a minimum investment of $50,000, the final rule has been amended to include those investors who were granted long-term business certificates with a minimum investment of $50,000, as long as they continued to hold that status on the transition program effective date. DHS decided to reduce the general minimum investment requirement rather than creating a separate eligible investor category in order to minimize any potential confusion in the adjudication process. *See* new 8 CFR 214.2(e)(23)(iii)(A).

This modification of the proposed rule furthers the goal of DHS to minimize the potential adverse economic and fiscal effects of this rulemaking on the CNMI by including all CNMI long-term investor classifications. It is consistent with the CNRA's references to aliens previously admitted to the CNMI in long-term investor status as eligible for the E–2 CNMI Investor nonimmigrant program.

4. Continuous Residence

One commenter wrote that what the commenter described as the six-month residence requirement will be unnecessarily rigorous for those investors who do not reside in the CNMI, proposing instead to reduce the requirement to two months. Another commenter wrote that the residence requirement should apply at the start of the transition period.

The rule does not in fact specifically require six months of residency; rather, the investor is required to have resided in the CNMI since he or she was lawfully admitted as a long-term investor (which, given the passage of time since the last date that such an admission could have taken place under the former CNMI immigration laws—November 27, 2009—is necessarily longer than six months), and to have been present in the CNMI for half the time that he or she has resided in the CNMI A continuous absence of six months or more may be considered to break the continuity of residence. New 8 CFR 214.2(e)(23)(ii)(D). DHS therefore interprets the comment to raise in general a concern about required residence time, and to request a reduction in the residence time to two months. DHS understands the concern but is unable to agree with the suggestion to reduce the residency requirement to two months or otherwise to modify it substantively. The CNRA requires that the investor have "continuously maintained residence in the Commonwealth under long-term investor status." Therefore, by definition, the status is unavailable to those who do not reside in the CNMI. While reasonable absence is not incompatible with maintaining residence, DHS does not believe that the lengths of absence suggested by the commenter, amounting essentially to absentee investment, are consistent with the statute. DHS has made a technical amendment to further clarify that the reference to an absence of six months or more as breaking the continuity of

residence means a "continuous" absence of six months or more.

In response to the commenter who wrote that the residence requirement should apply at the start of the transition period (*i.e.,* that DHS should not consider whether the investor resided in the CNMI during the period of status under CNMI law prior to the transition program effective date), DHS does not believe that such a change is consistent with the CNRA's requirement that the alien have "continuously maintained residence in the Commonwealth under long-term investor status." 48 U.S.C. 1806(c)(1)(B). By definition, long-term investor status was a status provided prior to the transition program effective date under the laws of the CNMI formerly in effect. *Id.* In the proposed rule, DHS provided as liberal a construction of the CNRA's residence requirements as it reasonably could do under the statute, including permitting substantial periods of absence from the CNMI not to terminate continuous residence. *See* new 8 CFR 214.2(e)(23)(ii)(D). For these reasons, DHS made no changes in response to this comment, other than the technical clarification identified above.

5. Economic Impact

Some commenters stated that the rule would have a significant negative impact on the CNMI economy. More specifically, these commenters objected that the analysis "substantially understated" the adverse effects of the rule and imposed an "exit requirement" upon investors at the end of the transition period.

DHS disagrees with the commenters' assertion that this rule represents either an "adverse" economic impact or an "exit requirement." The commenters may be conflating the economic impact of the CNRA's imposition of the immigration laws of the U.S. on the CNMI with the actual economic impact of this rule. When measuring the costs of a regulation, USCIS must measure these costs against a baseline. Per guidance from OMB Circular A–4, the baseline should be the best assessment of the way the world would look absent the proposed action. Without this rule in place, foreign investors who cannot qualify for status under the immigration laws of the U.S. would be required by the CNRA to leave the CNMI no later than Nov. 27, 2011. With this rule in place, foreign investors who cannot qualify for status under the immigration laws of the U.S. are allowed to stay until December 31, 2014. Consequently, this rule allows certain foreign investors to remain in the CNMI several years beyond when they would be able to stay without this rule in place. In this manner, this rule provides a significant economic benefit to the CNMI, and comments expressing concern over the economic impacts of this rule are misplaced.

One commenter wrote that DHS incorrectly determined that the proposed regulation does not constitute a major rule under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The commenter believes that this rule should be considered a major rule and therefore subject to disapproval by both Houses of the U.S. Congress and the President of the United States.

DHS does not agree with the commenter. The commenter is apparently citing SBREFA's Congressional Review Act, 5 U.S.C. 801 (CRA). The CRA delays implementation, and provides a mechanism for congressional disapproval, of regulations designated as "major rules" by the Administrator of the Office of Management and Budget. Such a designation is made where OMB finds the rule has resulted in or is likely to result in (a) an annual effect on the economy of $100,000,000 or more; (b) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic and export markets. *See* 5 U.S.C. 804(2). OMB has not determined that this rule is a major rule and, therefore, the CRA does not apply.

One commenter argued that DHS utilized outdated data which led to an understated economic impact on foreign-owned businesses.

As mentioned in the analysis, precise data for the CNMI are difficult to obtain. The 2005 CNMI Household, Income, and Expenditures Survey data, used in the initial analysis, have been updated with the most current publicly-available data from the 2007 Economic Census of Island Areas in the final analysis. The analysis required by the Regulatory Flexibility Act need not produce statistical certainty; the law requires that DHS "demonstrate a 'reasonable, good-faith effort' to fulfill [the RFA's] requirements." *Ranchers Cattlemen Action Legal Fund* v. *U.S. Dep't of Agric.,* 415 F.3d 1078, 1101 (9th Cir. 2005); *see also Associated Fisheries of Maine* v. *Daley,* 127 F.3d 104, 114–15 (1st Cir. 1997). Also, when conducting a Regulatory Flexibility Analysis, the RFA requires consideration only of the direct costs of a regulation on a small entity that is required to comply with the regulation. *Mid-Tex Electric Coop.* v. *FERC,* 773 F.2d 327, 340–43 (DC Cir. 1985) (holding indirect impact of a regulation on small entities that do business with or are otherwise dependent on the regulated entities is not considered in RFA analyses); *see also Cement Kiln Recycling Coal.* v. *EPA,* 255 F.3d 855, 869 (DC Cir. 2001) (observing that, in passing the RFA, "Congress did not intend to require that every agency consider every indirect effect that any regulation might have on small businesses in any stratum of the national economy").

6. End of Transition Period

Two comments opposed the termination of the E–2 CNMI Investor classification at the end of the transition period.

(a) Extension of Transition Period

One commenter objected to the DHS interpretation of the CNRA that any extension of the transition period by the Secretary of Labor will only extend the transitional worker visa and not the CNMI-only investor visa. DHS disagrees with the commenter. The CNRA specifically authorizes the Secretary of Labor only to extend "the provisions of this subsection" beyond December 31, 2014. *See* 48 U.S.C. 1806(d)(5)(A). "This subsection" is subsection (d), which solely addresses the transitional worker program. *Id.* The CNRA does not provide authority to extend subsection 1806(c), the nonimmigrant investor program, past the end of the transition period. *Id.*

(b) Expiration of E–2 CNMI Investor Classification

One commenter wrote that CNMI investors will be required to apply for a standard U.S. investor visa in order to remain in the CNMI after the transition period has ended. DHS appreciates the concern but is constrained by the CNRA. Although the Secretary of Labor has the authority to extend the initial 5-year transition period with respect to the transitional worker program, the E–2 CNMI Investor provision cannot be extended, as discussed above. The transition period will end on December 31, 2014. *See* new 8 CFR 214.2(e)(23)(xiv). Investors who seek to remain in the CNMI must apply and be approved for another immigrant or nonimmigrant status on or before December 31, 2014. DHS is aware that some CNMI investors may not qualify for another immigration classification at the end of the transition period;

however, DHS does not have authority to extend the E–2 CNMI Investor classification beyond its statutory limits.

V. Other Changes

Since DHS issued the proposed rule before the transition program effective date, DHS has made a number of other minor changes to the final rule as a result of the timing of the rule. These include:

A. Changes of Tense and Other Timing Matters

The proposed rule was written and issued before the transition program effective date. The fact that the final rule is issued after that date requires some wording changes. In particular, as immigration statuses are now a matter of Federal rather than CNMI law, including the Federal "grandfathered" status provided for up to two years past the transition program effective date to aliens based on their status under CNMI immigration law as of that date (*see* 48 U.S.C. 1806(e)), references in the proposed rule that could have been read to imply that CNMI immigration law statuses would continue as such after the transition program effective date have been modified accordingly. *See* new 8 CFR 214.2(e)(23)(i)(A) (changing references to admission under CNMI law and status as of transition date to the past tense); new 8 CFR 214.2(e)(23)(i)(B) (removing reference to continuous residence "under such long-term investor status"). These changes are technical rather than substantive, as the applicant for CNMI E–2 Investor status must still show that he or she has continuously resided in the CNMI since admission by the CNMI as a long-term investor, that he or she had long-term investor status as of the transition program effective date, and that he or she has maintained the investment(s) that formed the basis for that status, as provided by the proposed and the final rule. *See* new 8 CFR 214.2(e)(23)(i)(A), (B), (D); 8 CFR 214.2(e)(23)(ii)(D).

DHS has also modified the reference to investor classifications under CNMI law in new 8 CFR 214.2(e)(23)(iii). The proposed rule referred to CNMI law as in effect on May 8, 2008, the date of the CNRA's enactment. As explained in the Supplementary Information to the proposed rule, the reason for that date was to provide a practicable baseline to the rulemaking. In other words, the proposed rule was drafted in such a way so as to take into account the possibility that the CNMI government could modify its long-term investor classifications under the authority to enact immigration law for the CNMI that it possessed prior to November 28, 2009. Such an action could have had substantial effects on the rulemaking and the public's ability to provide useful comments on it. However, the CNMI government did not modify its long-term investor classifications. Therefore it is appropriate as a non-substantive technical change to conform date references in the final rule to the transition of immigration authority on November 27, 2009 (the last day of CNMI immigration authority) rather than May 8, 2008.

DHS has also removed the definition of "transition program effective date" that the proposed rule had provided as proposed new 8 CFR 214.2(e)(23)(ii)(G). This definition would have been redundant with the definition of transition program effective date in 8 CFR 1.1(bb) that was provided by the DHS Interim Final Rule, Application of Immigration Regulations to the Commonwealth of the Northern Mariana Islands, published on October 28, 2009, 74 FR 55726. The transition program effective date in this definition is November 28, 2009, the same as had been stated in the proposed rule on the E–2 CNMI Investor program. That definition applies to all USCIS programs in the CNMI.

B. Reference to Administrative Appeals Office

The final rule modifies the proposed rule's reference to appeals of denials of applications for E–2 CNMI Investor status. *See* new 8 CFR 214.2(e)(23)(ix). Rather than refer solely to the "USCIS Administrative Appeals Office" (AAO), the provision now refers to the AAO "or any successor body." This change is not substantive, but provides flexibility in case of a future USCIS administrative reorganization or the renaming of an office with respect to administrative appeals. DHS has found that overly specific references to particular officials or offices in regulations can lead either to unnecessary future conforming rulemakings, or obsolete regulations, if and when names and responsibilities are reorganized or otherwise modified.

C. Information Needed for Background Check

The final rule includes the proposed rule's specific authorization to collect biometric information from applicants for E–2 CNMI Investor status, with the applicant paying the biometric services fee. *See* new 8 CFR 214.2(e)(23)(viii). The final rule clarifies that biometric services include reuse of previously provided biometric information (typically in an extension of status scenario), consistent with USCIS's current practice. *Id.*

D. Fee Waiver Provisions

The final rule makes technical revisions in order to conform the rule to the reorganized format of 8 CFR 103.7 provided in the DHS final rule, "U.S. Citizenship and Immigration Services Fee Schedule," 75 FR 58962 (Sept. 24, 2010). *See* new 8 CFR 103.7(c)(3)(xix). The final rule also clarifies that the authority to waive fees applies to Forms I–539 filed by derivative spouses and children, as well as to Forms I–129 filed by principal applicants. The proposed and final fee rules provided generally for need-based application fee waivers for any applicant for E–2 CNMI Investor status in new 8 CFR 214.23(e)(xv), but the conforming reference in 8 CFR 103.7(c) did not refer specifically to the I–539 as well as the Form I–129.

VI. Regulatory Requirements

A. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule, with its impact limited to addressing eligible aliens currently in one of the CNMI long-term investor classifications, will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based companies to compete with foreign-based companies in domestic and export markets.

B. Executive Order 12866

This rule is a significant regulatory action under Executive Order 12866, section 3(f)(1), Regulatory Planning and Review. Accordingly, the Office of Management and Budget has reviewed this rule.

In accordance with Executive Order 12866, USCIS is required to prepare an assessment of the benefits and costs anticipated to occur as a result of this regulatory action and to provide the assessment to the Executive Office of the President, Office of Management and Budget, Office of Information and Regulatory Affairs. The analysis below is the DHS Economic Analysis as required by the Executive Order.

1. Public Comments on the Estimated Costs and Benefits of the Proposed Rule

DHS invited the public to comment on the extent of any potential economic impact of this rule on small entities, the scope of these costs, or more accurate means for defining these costs. As a result, DHS received a number of

comments related to the regulatory analysis performed for the proposed rule which is addressed above in the preamble of this rule.

(1) *Background.*

The CNMI lies north of Guam, between the Philippines and Japan. S. Rep. No. 110–324, at 2 (2008). The United States captured the islands of the CNMI in World War II and they became a district of the U.S.-administered United Nations Trust Territory of the Pacific Islands. *Id.* Under the Covenant through which the CNMI joined the United States in 1976, the CNMI was exempted from most provisions of U.S. immigration laws and allowed to control its own immigration; however, the Covenant gave the U.S. Congress the authority to modify that arrangement through Federal legislation. *Id.*

The United States enacted the CNRA, amending the level of control the CNMI would have over its immigration system to more closely harmonize it with the laws and procedures applicable to other U.S. jurisdictions, particularly those designed to ensure that border control, worker protections, national security, and homeland security issues are properly addressed. *See* CNRA section 701, 48 U.S.C. 1801 note.

(2) *Changes made by this rule.*

In order to reduce the opportunity for fraud and to improve homeland security, this rule requires foreign investors who wish to reside in the CNMI to reapply every two years using USCIS Form I–129, Petition for a Nonimmigrant Worker. Requiring renewal every two years will help USCIS make sure the investor has maintained eligibility and provided updated biometrics. The CNRA generally extends Federal control of immigration in the CNMI to address national security and homeland security issues, and the requirement for renewal within this period is consistent with current practice for non-CNMI E–2 treaty investor nonimmigrants. *See* CNRA section 701 (48 U.S.C. 1801 note).

However, USCIS is aware of and sensitive to the potential economic impact of new Federal immigration requirements on the CNMI economy, and this rule's requirements have been developed with that in mind. According to an economic study performed by the Northern Marianas College, employment grew in the CNMI by 12.7 percent annually between 1980 and 1995, because of expansion of the garment and tourism sectors.[2] During that time, the garment and tourism industries accounted for 85 percent of the CNMI economy.[3] Recently, economic conditions have changed dramatically for these two CNMI industries. As a result of changes in World Trade Organization agreements, the apparel industry in the CNMI was faced with greater international competition. Ultimately, this led to a decline in the value of CNMI textile exports to the United States, from $1.1 billion in 1998 to $317 million in 2007.[4] The number of licensed apparel manufacturers dropped from 34 to six in 2008.[5] The remaining three garment factories closed or suspended their operations in early 2009.[6]

The CNMI tourism industry also has been in decline in recent years. The terrorist attacks on the United States on September 11, 2001; the Severe Acute Respiratory Syndrome (SARS) epidemic which began in Asia in 2003 and led to the death of 774 people worldwide; the downturn in many Asian economies; changes in airline service; and other concerns have reduced the number of tourists traveling to the CNMI from 736,117 in 1996 to 389,345 in 2007.[7] Because of the decline of the CNMI economy, USCIS has sought to minimize the potentially negative effects of implementing the CNRA, while recognizing that Federal oversight of CNMI immigration is necessary to reduce fraud, assure worker protections, and ensure U.S. homeland security.

(3) *Alternatives considered.*

USCIS considered a narrow construction for implementation of the CNMI-only nonimmigrant investor visa as required by section (6)(c) of the Covenant Act, as added by section 702 of the CNRA. Possible constructions analyzed included limiting which investor-based categories under current CNMI law would be permitted to become CNMI E–2 Investors. Specifically, DHS discussed options wherein only CNMI perpetual foreign investors would be permitted, as well as options wherein only long-term business permit holders or a combination of only perpetual foreign investors and long-term business permit holders would be permitted. However, in light of the potential adverse economic impact of such limitations and the goal of limiting adverse economic impact on the CNMI, these narrower options were not chosen. USCIS chose the broadest interpretation possible, whereby long-term business permit holders, foreign investors and retiree investors (other than investors under a short term program not judged to qualify under the CNRA) would be eligible for CNMI E–2 Investor status, because such an interpretation is most in keeping with the mandate to limit adverse economic impact.

(4) *The total cost of this regulation to investors.*

(a) *Fees.*

This regulation will require all foreign investors wishing to remain in the CNMI to reapply for investor registration every two years using USCIS Form I–129, Petition for a Nonimmigrant Worker. The current application fee for this form is $325. Additionally, this rule will require CNMI investors to provide their biometrics and imposes a biometrics fee, currently $85. Thus, the total current fees for each initial and biennial registration are $410 ($325 + $85). Fee waivers for inability to pay are available.

(b) *Paperwork burden.*

It takes approximately 2.75 hours to complete Form I–129, according to the instructions to the form. Since most of the respondents under this rule will be business investors, their average hourly costs will be much higher than the average hourly costs of the average salaried worker. Thus, for the purpose of this analysis, USCIS based hourly costs on the average hourly salary for "chief executives" from the Department of Labor's May 2008 National Occupational Employment and Wage Estimates to determine the cost associated with the hours necessary to complete the Form I–129. The hourly wage for chief executives is $77.13. If we multiply $77.13 by 1.4 to account for fringe benefits, the hourly cost is $107.98. Multiplying $107.98 by the 2.75 hours required to fill out the I–129 results in paperwork burden cost per form of $296.95 (rounded up to $297). However, because of generally lower wage levels in the CNMI and because some CNMI investors are retirees, this is a maximum cost estimate and the likely actual cost to investors is expected to be lower.

Additionally, if a foreign investor wishes to bring along his or her family they will have to complete Form I–539, Application to Extend/Change Status.

[2] Northern Marianas College, Business Development Center, *An Economic Study of the Commonwealth of the Northern Mariana Islands* (Saipan, MP: Northern Marianas College 1999).

[3] *Id.*

[4] CNMI Comprehensive Economic Development Strategic Plan 2009–2014. CNMI CEDS Commission Updated 1/29/09.

[5] *Id.*

[6] *See* Walt F. J. Goodridge, *The Last Garment Factory is Closing,* Saipan Tribune (Jan. 14, 2009) (available at *http://www.saipantribune.com/newsstory.aspx?cat=3&newsID=86872*).

[7] GAO, *Commonwealth of the Northern Mariana Islands: Managing Economic Impact of Applying U.S. Immigration Law Requires Coordinated Federal Decisions and Additional Data,* No. GAO–08–791 (Aug. 4, 2008) (2008 GAO Rep.), available at *http://www.gao.gov/new.items/d08791.pdf.*

The current application fee for this form is $290 and this form takes approximately 45 minutes to complete according to the form instructions. If the foreign investor fills out this form himself, the paperwork cost to complete this form is $107.98 × .75, or $80.99 (rounded up to $81) per investor.

(c) *Cost incurred per foreign investor.*

Adding the estimated paperwork burden cost for completing Form I–129 of $297 to the $410 current application and biometrics fees, the total cost incurred for each CNMI foreign investor to submit the I–129 as required under this rule every two years is $707. Since re-registration is only required every other year, annualized costs to foreign investors are $354 ($707/2).

In addition, the $81 paperwork cost of completing the I–539 plus the $290 application fee equals a total of $371. In this case, Form I–539 is being used to grant initial status and to extend status every two years. This results in an annualized cost of $186 ($371/2) for foreign investors to complete and submit Form I–539 every two years for their family.

In addition, spouses and children who wish to receive the same status as their foreign investor spouse or parent may be required to provide biometrics at a current fee of $85 per person. According to a recent GAO report, the average family in the Northern Mariana Islands includes two children.[8] However, biometrics are only required for children between the ages of 14 and 21. Therefore, for purposes of analysis, we assume that each foreign investor's family will be required to provide biometric fees for one spouse and only one child for an additional cost of $170. This will be required only every other year for an average annualized fee of $85 ($170/2). Adding this fee to the above paperwork costs and fees will lead to an annualized cost per investor family of $625 ($354 + $186 + $85).

The above annual estimates represent the costs incurred by those investors with a spouse and one child between the ages of 14 and 21. For those investors with a spouse and more than one child between the age of 14 and 21, these estimates may be too low. For those investors, particularly those who are retired, these estimates may be too high. Lack of data on foreign investors prevents us from further refining our estimates.

Under the CNMI government's former immigration authority, foreign investors were charged $1,000 every two years or $500 per year by the CNMI government. CNMI fee setting methodology is unknown to USCIS. For this analysis, it is assumed that the CNMI fees resembled U.S. Government agency service and user fees in that they were set at the amount necessary to recover costs in accordance with Office of Management and Budget guidance, and were not intended to generate a profit. Thus, while fees collected by the CNMI for the foreign investor program will no longer be collected by the CNMI Government, the cost of administering that program will not be incurred, resulting in a neutral financial effect. To the extent that the CNMI government used such fees to raise revenue, such excess will be lost as a result of this rule.

This final rule replaces the $1,000 fee formerly charged every two years by the CNMI government under the legal authority it possessed prior to the transition program effective date. Therefore, this rule will raise the foreign investor's annualized direct cost by $125 ($625–$500), through the end of the transition period in 2014.[9] USCIS did not estimate the paperwork burden associated with completing the requisite CNMI application forms. Consequently, the $125 annualized direct cost for foreign investors is most likely overstated.

Additionally, this rule provides that spouses of foreign investors are eligible to apply for employment authorization documents. This accommodation is a significant qualitative benefit for an investor's spouse who needs or wants to work while living in the CNMI. If the spouse chooses to take advantage of this benefit, he or she must file a Form I–765, Application for Employment Authorization, which requires a current fee of $380 and 3.42 hours to complete. Since the occupation of these spouses is unknown, we use fully burdened minimum wage of $10.15 to estimate the opportunity cost of completing the form at $34.71.[10] DHS is unable to accurately estimate the number of investors who have spouses that will request employment authorization, although some CNMI E–2 spouses are likely to take advantage of this opportunity.

(5) *Number of filings expected.*

USCIS projects that most foreign investors plan to re-register their status, although a small number of foreign investors may be found ineligible. For the purpose of this analysis, we assume that all current investors will choose to re-register. USCIS does not believe the relatively low additional annualized cost of $125 to foreign investors will cause foreign investors not to re-register.

In 2006–2007, there were 448 long-term business entry permit holders and 30 foreign investor entry permit holders and retiree investor permit holders, totaling 478, or approximately 500 foreign registered investors.[11] In its recent report, the GAO estimates that the number of active and valid long-term business and perpetual foreign investor entry permits totaled 506 in 2008. In another measure, the GAO suggests that 448 businesses were associated with long-term business entry permits and additional 56 perpetual foreign entry permits were associated with 30 businesses. This analysis assumes that 500 foreign investors would be affected because of the constantly changing economic environment in CNMI. The annualized costs and fees throughout the transition period, as discussed above, would be an additional $125 per investor for a total annualized direct cost of $62,500 ($125 × 500) for all CNMI foreign investors.

Foreign investors who travel to and from the CNMI will now be required to have visas. USCIS, however, is not requiring foreign investors who travel to the United States to have visas in this rule, as that requirement will exist irrespective of this rule. Thus the cost to obtain a visa is not a cost of this rule but rather the cost of the CNRA, and the application of Federal immigration laws in the CNMI.

(6) *The cost to the Federal Government.*

There are no additional costs to the Federal Government, because USCIS is generally a fee funded agency. USCIS will recoup its costs through the collection of Form I–129 and Form I–539 fees.

(7) *Effects after 2014.*

(a) The CNRA and this rule.

The CNRA was intended to ensure effective border control procedures and to properly address national security and homeland security concerns by extending U.S. immigration law to the CNMI, and to maximize the CNMI's potential for future economic and business growth under U.S. immigration law. This rule establishes temporary regulatory provisions to transition the CNMI to U.S. immigration law and to mitigate harm to the CNMI economy before investors in the CNMI are required to obtain U.S. immigrant or

[8] 2008 GAO Rep., *supra* note 7.

[9] This estimate considers the added time burden costs of the new USCIS paperwork but includes no similar cost savings from eliminating the paperwork burden associated with the CNMI's current program. Thus actual costs savings are likely to be greater than estimated here.

[10] Minimum wage totals $7.25/hour × 1.4 (burdened rate) = $10.15/hour. *See http://www.dol.gov/whd/Flsa/index.htm.* $10.15/hour × 3.42 hours = $34.71.

[11] 2008 GAO Rep., *supra* note 7.

nonimmigrant visa classifications. The CNMI investor program established by this rule will last until the end of the transition program, December 31, 2014, by which time the CNMI E–2 Investor must apply and be approved for another immigrant or nonimmigrant status under the INA. It is assumed that the data provided by the CNMI and other interested parties, gathered by Congress, and considered in development and passage of the CNRA showed significant differences in the nonimmigrant visa programs under the INA and the visa and certificate programs offered by the CNMI. Current foreign workers and investors in the CNMI would mostly not be eligible for a status under the INA, or else legislation of a transition period and temporary mitigating regulations as proposed under this rule would be unnecessary. Thus, while one stated goal of the CNRA is the economic and business growth of the CNMI, by providing a mitigating transition program, the legislation implies that goal will require at least through 2014 to be achieved. This rule will operate during that time.

(b) Effect on investors.

This rule links investment levels to those required for CNMI status for a long-term business investor at $50,000; a perpetual foreign investor at $100,000, in an aggregate approved investment in excess of $2,000,000, or a minimum of $250,000 in a single investment; and, a retiree investor at $100,000 in Saipan, $75,000 in Tinian or Rota, or $150,000 elsewhere in the CNMI. To qualify as a U.S. E–2 treaty investor with nonimmigrant status, the applicant must invest a substantial amount of capital in a bona fide enterprise in the United States, must be seeking entry solely to develop and direct the enterprise, and must intend to depart the United States when the treaty investor status ends. In addition, the treaty investor must be a national of a country with which the United States has a treaty of friendship, commerce, or navigation and must be entering the United States pursuant to treaty provisions.

There is no accurate way for USCIS to estimate for what other visa or nonimmigrant status the 500 foreign registered investors may qualify. However, a review of the CNMI eligibility criteria and anecdotal evidence indicates that many of them would not meet the minimum financial investment necessary to be eligible for U.S. E–2 status currently. Further, the retiree investor permit holders do not qualify as U.S. E–2 Investors in their current status, notwithstanding that they may have access to or be able to acquire enough capital to invest and qualify. Finally, according to the GAO Report, about 18 percent of foreign investors in the CNMI are from countries with which the United States does not have a treaty of friendship, commerce, or navigation.[12] Thus of the 500 foreign registered investors in the CNMI, many of them will need to spend the transition period making themselves eligible for another status under the INA. Anecdotal evidence indicates that at least a few of the affected investors from countries without treaties of friendship, commerce or navigation with the United States may be eligible for L–1A executive or managerial visas; thus the possibility exists that some of these investors may be able to stay in the CNMI in another status after the end of the transition program on December 31, 2014.[13]

(c) Effect on the CNMI economy of the CNRA.

USCIS has not analyzed the precise effect of increased or decreased investments in the CNMI caused by the CNRA. Nevertheless, as indicated before, the differences between the CNMI foreign investor programs before the CNRA took effect and those available afterward under the INA are certain to change the mix of foreign investors eligible for a new status and maintaining a presence in the CNMI after the end of the transition program on December 31, 2014. An immigrant investor program, or immigration through investment, seeks to promote economic growth through increased export sales, improved regional productivity, creation of new jobs, and increased domestic capital investment. The presumption is that the investment opportunity coupled with the opportunity to live in the country offering the program offers advantages, or at least appears to offer advantages, to the investor over investments and residence in his or her country of origin. Assuming that these goals are generally achieved, withdrawal of the alien's investment without substitution of a substantially similar investment would, at the least, end what positive results had been started, and, at the worst, have the reverse effect and retard growth, sales, productivity, jobs, and investment. Thus, if a substantial number of the 500 foreign investors in the CNMI are required by the CNRA to leave, and their investments are not maintained or replaced by another equal or greater investment, then it will likely have a negative impact on the CNMI economy. This rule is intended to mitigate that impact.

(8) *Benefits.*

CNMI administration of an immigration system outside U.S. immigration law led to visa system abuses in the CNMI. Sen. Rep. No. 110–324, at 3 (2008). Given this abuse, there are concerns not only for the well being of foreign employees working in the CNMI, but also for the potential abuse of the visa system by those seeking to illegally emigrate from the CNMI to Guam or elsewhere in the United States. *Id.* at 3–5. This reduces the integrity of the U.S. immigration system by increasing the ease by which aliens may unlawfully enter the United States through the CNMI. Federal oversight and regulation of CNMI foreign investors should help reduce abuse by foreign investors in the CNMI and the opportunity for aliens to exploit the CNMI as an entry point into the United States. *Id.* at 2, 4–5. The Federal Government's assumption of responsibility for immigration enforcement in the CNMI reduces the opportunity for abuse of the CNMI immigration regime for illegal access to the United States.

(9) *Conclusion.*

This rule responds to a Congressional mandate that requires the Federal Government to assume responsibility for all immigration to the CNMI by foreign investors, whether temporary or permanent and to implement the special E–2 investor provisions of the CNRA in the CNMI. This rule will implement this mandate and thus contribute to U.S. homeland security. USCIS concludes that the alternative chosen for this rule represents the most cost-effective means of implementing its Congressional mandate while having the least possible negative impact on the CNMI economy.

C. Regulatory Flexibility Act—Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, requires Federal agencies to consider the impact of their regulatory proposals on small entities whenever an agency must publish a notice of proposed rulemaking. Recently, new data concerning the CNMI were made available by the U.S. Census Bureau. DHS also examined a recent U.S. Department of the Interior (DOI) report; however the data in that report did not apply to this analysis. DHS did incorporate some of the overall

[12] 2008 GAO Rep., *supra* note 7.

[13] *See* INA section 101(a)(15)(L), 8 U.S.C. 1101(a)(15)(L); 8 CFR 214.2(l).

DOI conclusions later in this analysis.[14] Accordingly, DHS has updated this analysis to reflect the most recent information. In the Initial Regulatory Flexibility Analysis (IRFA), DHS primarily utilized data from the 2005 CNMI Household, Income, and Expenditures Survey (HIES) to analyze the impacts on small entities. Since 2005, the CNMI economy has experienced significant changes; new data from the 2007 Economic Census of Island Areas show important differences in the labor force and business establishments.[15]

1. Objectives of, and Legal Basis for, the Final Rule

On May 8, 2008, President Bush signed into law the Consolidated Natural Resources Act of 2008 (CNRA), Public Law 110–229. Title VII of the CNRA extends U.S. immigration laws to the CNMI with transition provisions unique to the CNMI. The stated purpose of the CNRA is to ensure effective border control procedures, to properly address national security and homeland security concerns by extending U.S. immigration law to the CNMI, and to maximize the CNMI's potential for future economic and business growth. 48 U.S.C. 1801 note.

The law also contains several CNMI-specific provisions affecting foreign workers and investors during the transition period. 48 U.S.C. 1806(b), (c). This rule establishes procedures for foreign investors in the CNMI to obtain nonimmigrant status within the E–2 treaty investor classification, in accordance with the CNRA. Additionally, this rule is intended to provide a smooth transition for existing CNMI investors and to mitigate potential adverse consequences of the CNRA to the CNMI.

2. Significant Issues Raised by Public Comments in Response to the IRFA

DHS received a number of comments relating to the economic analysis. These comments have been addressed in section IV(B)(5) (Economic Impact), above.

3. Description and Estimate of the Number of Small Entities to Which the Rule Will Apply

a. *Regulated entities.*

This rule will directly affect foreign investors in the CNMI. As previously stated, foreign investors in the past could apply for the following CNMI entry permits: Foreign investor permits, long-term business permits, and retiree investor permits. These investors are small business owners and this rule does not regulate small nonprofits or small governmental jurisdictions.

b. *Number of small entities to which the final rule will apply.*

This analysis is most concerned with the number of business establishments owned by foreign investors, the number of workers they employ, and the revenue levels of those entities. This analysis is based on data from the 2007 Economic Census of Island Areas as we believe they are the best data publicly available.[16]

According to the 2007 Economic Census of Island Areas, there were 1,191 business establishments in the CNMI, and 365 of these establishments were owned by foreign investors.[17] Table 1 outlines the pertinent statistics on these foreign-owned businesses.

TABLE 1—FOREIGN-OWNED BUSINESSES IN THE CNMI

Industry name (NAICS)	# Est.	# Emp.	Avg emp.	Avg sales/receipts	SBA guideline
Total CNMI (all sectors & est.)	1191	22,622	19	$1,078,243	
Total Foreign-owned Est	365	9,663	26	1,149,214	
Foreign-owned by sector					
Construction (23)	17	165	10	379,941	$7 to $33 million.
Manufacturing (31–33)	23	3,121	136	2,831,696	500–1,500 employees.
Wholesale (42)	18	168	9	1,104,444	100 employees.
Retail (44–45)	77	785	10	660,727	$7 to $29 million.
Real Estate (53)	29	103	4	178,517	$7 to $25.5 million.
Prof Services (54)	16	88	6	169,063	$4.5 to $27 million.
Admin/Support Services (56)	23	245	11	414,043	$4.5 to $35.5 million.
Educational Services (61)	28	83	3	76,500	$7 to $35.5 million.
Arts & Entertain (71)	20	268	13	482,850	$7 million.
Accomm. & Food Services (72)	68	2,661	39	1,367,735	$7 to $20.5 million.
Other Services (81)	25	256	10	259,280	$7 to $25 million.

Table 1 illustrates the fact that all foreign-owned businesses in the CNMI are small entities by comparing the average number of employees per establishment or the average receipts/sales/revenue per establishment to the size guidelines outlined by the Small Business Administration.

It is important to note that the manufacturing numbers reported in Table 1 are certainly changed today. The 2007 data indicated that the apparel sector of the manufacturing industry in the CNMI accounted for 42% of the entire manufacturing industry. Now that apparel manufacturing in the CNMI has ceased operations, we estimate that 10 foreign-owned apparel manufacturing establishments have ceased operations and this results in a decrease of about 1,311 employees.[18] One promising development in the CNMI was highlighted by a recent Department of the Interior study that reported a number of the industries listed above are now forecasting employment growth

[14] U.S. Department of the Interior, The Secretary of the Interior, *A Report on the Alien Worker Population in the Commonwealth of the Northern Mariana Islands,* Washington, DC, April 2010, available at *http://www.doi.gov/oia/reports/042810_FINAL_CNMI_Report.pdf.*

[15] The 2007 Economic Census of Island Areas was released by the Census Bureau on September 1, 2009. The 2007 Economic Census results for the CNMI are available at *http://factfinder.census.gov/servlet/FindEconDatasetsServlet?_caller=geoselect&_ts=291885681264.*

[16] The 2007 Economic Census data for the CNMI is available at *http://factfinder.census.gov/servlet/FindEconDatasetsServlet?_caller=geoselect_ts=291885681264.*

[17] This number is smaller than the 500 long-term permit holders identified by the GAO report referenced earlier. This likely is due to data reporting restrictions of the Census Bureau.

[18] 23 est. × 42% = 9.66 fewer establishments and 3,121 employees × 42% = 1,311 fewer employees.

by 2014.[19] As of 2007, the foreign-owned small businesses that will be impacted by this rule employed about 43% of workers in the CNMI. This segment certainly represents a substantial number of employers and business establishments in the CNMI.

4. Reporting, Recordkeeping and Other Compliance Requirements

a. *Significance of Impact.*

As discussed above, the average petitioner will be required to incur annualized fee and paperwork burden costs of $625 ($354 for investors + $186 for family members' I–539 + $85 for biometrics), and the CNMI government will not charge its $1,000 fee every two years. Therefore, at most this rule will raise the foreign investor's annualized costs by $125 ($625 − $500) each year of the transition. The increased annualized cost for each investor due to this rule represents less than 0.01087% of average annual receipts in the CNMI for foreign owned establishments (*see* Table 1 for average sales/receipt information).[20] Therefore, USCIS believes that this additional fee and paperwork burden should have little to no impact on the decision of foreign investors to remain in the CNMI.

b. *Paperwork Reduction Act—new reporting requirement.*

Foreign investors who wish to reside in the CNMI will have to apply in the first year and reapply every two years using USCIS Form I–129, Petition for a Nonimmigrant Worker. This is a new requirement within the meaning of the Paperwork Reduction Act. As stated above, Form I–129 results in paperwork burden cost per form of $297. Additionally, a foreign investor who brings along his or her family will have to complete Form I–539, Application to Extend/Change Status. The paperwork cost to complete this form is $81. If the spouse of a foreign investor chooses to seek employment, he or she must file a Form I–765, Application for Employment Authorization, which has a paperwork burden estimated at $35.47 for the spouses taking advantage of this option. This rule does not require professional skills for the preparation of reports or records.

5. Steps Taken To Minimize Significant Adverse Economic Impacts on Small Entities

Throughout the development of the rule, DHS attempted to gather information regarding the economic impact of the rule's requirements on foreign investors. DHS considered limiting the categories of investors under previous CNMI law who would be permitted to become CNMI E–2 Investors. However, in light of the goal of limiting adverse economic impact on the CNMI, USCIS chose the broadest interpretation possible, whereby long-term business permit holders, foreign investors and retiree investors (other than investors under a short term program not judged to qualify under the CNRA) would be eligible for CNMI E–2 Investor status, because such an interpretation is most in keeping with the mandate to limit adverse economic impact.

Since all of the entities directly affected by this rule are small, this rule provides no different requirements or any exemption from coverage of the rule based on entity size. It should be noted, however, that small entities may request a waiver of their fees under this rule, if they do not have the ability to pay.

Commenters recommended a few alternatives to the proposed rule. These include: Extension of transition period; elimination of the $150,000 minimum investment requirement; and change in the definition of continuous residence.

(a) *Extension of Transition Period:*

One commenter objected to the DHS interpretation of the CNRA that any extension of the transition period by the Secretary of Labor will only extend the transitional worker visa and not the CNMI-only investor visa. As previously discussed, the commenter's interpretation of the CNRA is incorrect. Therefore, DHS is unable to adopt this alternative approach.

(b) *Minimum Investment for Long-Term Business Investors:*

Three commenters wrote that the $150,000 minimum investment requirement for Long-Term Business Investors will exclude investors who were granted Long-Term Business Certificates by the CNMI at a lower investment minimum of $50,000. As previously discussed, DHS found that these comments had merit. The final rule therefore has been amended to include those investors who were granted long-term business certificates with a minimum investment of $50,000, as long as they continued to hold that status on the transition program effective date and are otherwise eligible.

This modification of the proposed rule furthers the goal of DHS and the intent of Congress to minimize potential adverse economic and fiscal effects of the CNRA on the CNMI and small entities by including all CNMI long-term investor classifications.

(c) *Continuous Residence:*

One commenter wrote that the proposed rule's residence requirement will be unnecessarily rigorous for those investors who do not reside in the CNMI and proposed reducing the requirement to two months. Another commenter wrote that the residence requirement should apply at the start of the transition period. As previously discussed, DHS does not believe that adopting these suggestions would be consistent with the CNRA's continuous residence requirement.

D. Executive Order 13132

Executive Order 13132 requires each Federal agency to develop a process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications." The phrase "policies that have Federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." USCIS has considered the Federalism implications of this rule under the Executive Order.

Executive Order 13132 is based upon the role and authorities of "States" under the U.S. Constitution. The CNMI is not a "State" as defined by section 1(b) of Executive Order 13132 to include "the States of the United States of America, individually or collectively, and, where relevant, to State governments, including units of local government and other political subdivisions established by the States." Therefore, USCIS has determined that no actions are required under Executive Order 13132. USCIS has, however, solicited the input of the CNMI government and other CNMI stakeholders on issues relating to treatment of investors under Public Law 110–229.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting or recordkeeping requirements inherent in a regulatory action. The information collection requirements contained in this rule, Form I–129, Form I–539, and Form I–765, have been previously approved for use by OMB. The OMB

[19] U.S. Department of the Interior, *A Report on the Alien Worker Population in the Commonwealth of the Northern Mariana Islands,* Wash., DC (Apr. 2010), available at *http://www.doi.gov/oia/reports/042810_FINAL_CNMI_Report.pdf.*

[20] $125/$1,149,214 (average annual receipts/revenue of foreign-owned establishments) = 0.01087%.

control numbers for these collections are 1615–0009, 1615–0003, and 1615–0040 respectively. The evidentiary requirements contained in this rule at 8 CFR 214.2(e)(23)(vi) are not new requirements and are currently contained on the instructions to Form I–129. Accordingly, these evidentiary requirements will not add to the burden for completing Form I–129 and Supplement E.

This final rule requires minor changes to:

- Form I–539, Application to Extend/Change Nonimmigrant Status (OMB Control No. 1615–0003) and
- Form I–129, Petition for Nonimmigrant Worker (OMB Control No. 1615–0009).

Accordingly, USCIS has prepared OMB 83–Cs (correction worksheets) for both these forms to reflect non-substantive changes, and has submitted them to OMB with this final rule.

It is estimated that there will be a slight increase in the number of filings of Form I–129 (due to the new requirement to have foreign investors who wish to reside in the CNMI submit Form I–129) and Form I–539. However, the current OMB-approved annual burden hours are sufficient to encompass the filings added as a result of this rule.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Immigration, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES; AVAILABILITY OF RECORDS

■ 1. The authority citation for part 103 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; 48 U.S.C. 1806; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*), E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

■ 2. Section 103.7 is amended by:
■ a. Removing the word "and" at the end of paragraph (c)(3)(xvii);
■ b. Removing the "." at the end of paragraph (c)(3)(xviii) and adding a ", and" in its place; and by
■ c. Adding a new paragraph (c)(3)(xix) to read as follows:

§ 103.7 Fees.

* * * * *

(c) * * *

(3) * * *

(xix) Petition for Nonimmigrant Worker (Form I–129) or Application to Extend/Change Nonimmigrant Status (Form I–539), only in the case of an alien applying for E–2 CNMI Investor nonimmigrant status under 8 CFR 214.2(e)(23).

* * * * *

PART 214—NONIMMIGRANT CLASSES

■ 1. The authority citation for part 214 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305 and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Public Law 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2.

■ 2. Section 214.2 is amended by adding a new paragraph (e)(23) to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(e) * * *

(23) *Special procedures for classifying foreign investors in the Commonwealth of the Northern Mariana Islands (CNMI) as E–2 nonimmigrant treaty investors under title VII of the Consolidated Natural Resources Act of 2008 (Pub. L. 110–229), 48 U.S.C. 1806.*

(i) *E–2 CNMI Investor eligibility.* During the period ending on January 18, 2013, an alien may, upon application to the Secretary of Homeland Security, be classified as a CNMI-only nonimmigrant treaty investor (E–2 CNMI Investor) under section 101(a)(15)(E)(ii) of the Act if the alien:

(A) Was lawfully admitted to the CNMI in long-term investor status under the immigration laws of the CNMI before the transition program effective date and had that status on the transition program effective date;

(B) Has continuously maintained residence in the CNMI;

(C) Is otherwise admissible to the United States; and

(D) Maintains the investment or investments that formed the basis for such long-term investment status.

(ii) *Definitions.* For purposes of paragraph (e)(23) of this section, the following definitions apply:

(A) *Approved investment or residence* means an investment or residence approved by the CNMI government.

(B) *Approval letter* means a letter issued by the CNMI government certifying the acceptance of an approved investment subject to the minimum investment criteria and standards provided in 4 N. Mar. I. Code section 5941 *et seq.* (long-term business certificate), 4 N. Mar. I. Code section 5951 *et seq.* (foreign investor certificate), and 4 N. Mar. I. Code section 50101 *et seq.* (foreign retiree investment certificate).

(C) *Certificate* means a certificate or certification issued by the CNMI government to an applicant whose application has been approved by the CNMI government.

(D) *Continuously maintained residence in the CNMI* means that the alien has maintained his or her residence within the CNMI since being lawfully admitted as a long-term investor and has been physically present therein for periods totaling at least half of that time. Absence from the CNMI for any continuous period of more than six months but less than one year after such lawful admission shall break the continuity of such residence, unless the subject alien establishes to the satisfaction of DHS that he or she did not in fact abandon residence in the CNMI during such period. Absence from the CNMI for any period of one year or more during the period for which continuous residence is required shall break the continuity of such residence.

(E) *Public organization* means a CNMI public corporation or an agency of the CNMI government.

(F) *Transition period* means the period beginning on the transition program effective date and ending on December 31, 2014.

(iii) *Long-term investor status.* Long-term investor status under the immigration laws of the CNMI includes only the following investor classifications under CNMI immigration laws as in effect on or before November 27, 2009:

(A) *Long-term business investor.* An alien who has an approved investment of at least $50,000 in the CNMI, as evidenced by a Long-Term Business Certificate.

(B) *Foreign investor.* An alien in the CNMI who has invested either a minimum of $100,000 in an aggregate approved investment in excess of $2,000,000, or a minimum of $250,000 in a single approved investment, as evidenced by a Foreign Investment Certificate.

(C) *Retiree investor.* An alien in the CNMI who:

(*1*) Is over the age of 55 years and has invested a minimum of $100,000 in an approved residence on Saipan or $75,000 in an approved residence on Tinian or Rota, as evidenced by a Foreign Retiree Investment Certification; or

(*2*) Is over the age of 55 years and has invested a minimum of $150,000 in an approved residence to live in the CNMI, as evidenced by a Foreign Retiree Investment Certificate.

(iv) *Maintaining investments.* An alien in long-term investor status under the immigration laws of the CNMI is maintaining his or her investments if that alien investor is in compliance with the terms upon which the investor certificate was issued.

(v) *Filing procedures.* An alien seeking classification under E–2 CNMI Investor nonimmigrant status must file an application for E–2 CNMI investor nonimmigrant status, along with accompanying evidence, with USCIS in accordance with the form instructions before January 18, 2013. An application filed after the filing date deadline will be rejected.

(vi) *Appropriate documents.* Documentary evidence establishing eligibility for E–2 CNMI nonimmigrant investor status is required.

(A) Required evidence of admission includes a valid unexpired foreign passport and a properly endorsed CNMI admission document (*e.g.,* entry permit or certificate) reflecting lawful admission to the CNMI in long-term business investor, foreign investor, or retiree foreign investor status.

(B) Required evidence of long-term investor status includes:

(*1*) An unexpired Long-Term Business Certificate, in the case of an alien in long-term business investor status.

(*2*) An unexpired Foreign Investment Certificate, in the case of an alien in foreign investor status.

(*3*) A Foreign Retiree Investment Certification or a Foreign Retiree Investment Certificate, in the case of an alien in retiree investor status.

(C) Required evidence that the long-term investor is maintaining his or her investment includes all of the following, as applicable:

(*1*) An approval letter issued by the CNMI government.

(*2*) Evidence that capital has been invested, including bank statements showing amounts deposited in CNMI business accounts, invoices, receipts or contracts for assets purchased, stock purchase transaction records, loan or other borrowing agreements, land leases, financial statements, business gross tax receipts, or any other agreements supporting the application.

(*3*) Evidence that the applicant has invested at least the minimum amount required, including evidence of assets which have been purchased for use in the enterprise, evidence of property transferred from abroad for use in the enterprise, evidence of monies transferred or committed to be transferred to the new or existing enterprise in exchange for shares of stock, any loan or mortgage, promissory note, security agreement, or other evidence of borrowing which is secured by assets of the applicant.

(*4*) A comprehensive business plan for new enterprises.

(*5*) Articles of incorporation, by-laws, partnership agreements, joint venture agreements, corporate minutes and annual reports, affidavits, declarations, or certifications of paid-in capital.

(*6*) Current business licenses.

(*7*) Foreign business registration records, recent tax returns of any kind, evidence of other sources of capital.

(*8*) A listing of all resident and nonresident employees.

(*9*) A listing of all holders of business certificates for the business establishment.

(*10*) A listing of all corporations in which the applicant has a controlling interest.

(*11*) In the case of a holder of a certificate of foreign investment, copies of annual reports of investment activities in the CNMI containing sufficient information to determine whether the certificate holder is under continuing compliance with the standards of issuance, accompanied by annual financial audit reports performed by an independent certified public accountant.

(*12*) In the case of an applicant who is a retiree investor, evidence that he or she has an interest in property in the CNMI (*e.g.,* lease agreement), evidence of the value of the property interest (*e.g.,* an appraisal regarding the value of the property), and, as applicable, evidence of the value of the improvements on the property (*e.g.,* receipts or invoices of the costs of construction, the amount paid for a preexisting structure, or an appraisal of improvements).

(vii) *Physical presence in the CNMI.* Physical presence in the CNMI at the time of filing or during the pendency of the application is not required, but an application may not be filed by, or E–2 CNMI Investor status granted to, any alien present in U.S. territory other than in the CNMI. If an alien with CNMI long-term investor status departs the CNMI on or after the transition program effective date but before being granted E–2 CNMI Investor status, he or she may not be re-admitted to the CNMI without a visa or appropriate inadmissibility waiver under the U.S. immigration laws. If USCIS grants E–2 CNMI Investor nonimmigrant classification to an alien who is not physically present in the CNMI at the time of the grant, such alien must obtain an E–2 CNMI Investor nonimmigrant visa at a consular office abroad in order to seek admission to the CNMI in E–2 CNMI Investor status.

(viii) *Information for background checks.* USCIS may require an applicant for E–2 CNMI Investor status, including but not limited to any applicant for derivative status as a spouse or child, to submit biometric information. An applicant present in the CNMI must pay or obtain a waiver of the biometric services fee described in 8 CFR 103.7(b) for any biometric services provided, including but not limited to reuse of previously provided biometric information for background checks.

(ix) *Denial.* A grant of E–2 CNMI Investor status is a discretionary determination, and the application may be denied for failure of the applicant to demonstrate eligibility or for other good cause. Denial of the application may be appealed to the USCIS Administrative Appeals Office or any successor body.

(x) *Spouse and children of an E–2 CNMI Investor.*

(A) *Classification.* The spouse and children of an E–2 CNMI Investor accompanying or following-to-join the principal alien, if otherwise admissible, may receive the same classification as the principal alien. The nationality of a spouse or child of an E–2 CNMI investor is not material to the classification of the spouse or child.

(B) *Employment authorization.* The spouse of an E–2 CNMI Investor lawfully admitted in the CNMI in E–2 CNMI Investor nonimmigrant status, other than the spouse of an E–2 CNMI investor who obtained such status based upon a Foreign Retiree Investment Certificate, is eligible to apply for employment authorization under 8 CFR 274a.12(c)(12) while in E–2 CNMI Investor nonimmigrant status. Employment authorization acquired under this paragraph is limited to employment in the CNMI only.

(xi) *Terms and conditions of E–2 CNMI Investor nonimmigrant status.*

(A) *Nonimmigrant status.* E–2 CNMI Investor nonimmigrant status and any derivative status are only applicable in the CNMI. Entry, employment, and residence in the rest of the United States (including Guam) require the appropriate visa or visa waiver eligibility. An E–2 CNMI Investor who enters, attempts to enter or attempts to travel to any other part of the United States without the appropriate visa or visa waiver eligibility, or who violates conditions of nonimmigrant stay applicable to any such authorized status in any other part of the United States, will be deemed to have violated the terms and conditions of his or her E–2 CNMI Investor status. An E–2 CNMI Investor who departs the CNMI will require an E–2 CNMI investor visa for readmission to the CNMI as an E–2 CNMI Investor.

(B) *Employment authorization.* An alien with E–2 CNMI Investor nonimmigrant status is only employment authorized in the CNMI for the enterprise that is the basis for his or her CNMI Foreign Investment Certificate or Long-Term Business Certificate, to the extent that such Certificate authorized such activity. An alien with E–2 CNMI Investor nonimmigrant status based upon a Foreign Retiree Investor Certificate is not employment authorized.

(C) *Changes in E–2 CNMI investor nonimmigrant status.* If there are any substantive changes to an alien's compliance with the terms and conditions of qualification for E–2 CNMI Investor nonimmigrant status, the alien must file a new application for E–2 CNMI Investor nonimmigrant status, in accordance with the appropriate form instructions to request an extension of stay in the United States. Prior approval is not required if corporate changes occur that do not affect a previously approved employment relationship, or are otherwise non-substantive.

(D) *Unauthorized change of employment.* An unauthorized change of employment to a new employer will constitute a failure to maintain status within the meaning of section 237(a)(1)(C)(i) of the Act.

(E) *Periods of admission.* (*1*) An E–2 CNMI Investor may be admitted for an initial period of not more than two years.

(*2*) The spouse and children accompanying or following-to-join an E–2 CNMI Investor may be admitted for the period during which the principal alien is in valid E–2 CNMI Investor nonimmigrant status. The temporary departure from the United States of the principal E–2 CNMI Investor shall not affect the derivative status of the dependent spouse and children, provided the familial relationship continues to exist and the principal alien remains eligible for admission as an E–2 CNMI Investor.

(xii) *Extensions of stay.* Requests for extensions of E–2 CNMI Investor nonimmigrant status may be granted in increments of not more than two years, until the end of the transition period. To request an extension of stay, an E–2 CNMI Investor must file with USCIS an application for extension of stay, with required accompanying documents, in accordance with the appropriate form instructions. To qualify for an extension of E–2 CNMI Investor nonimmigrant status, each alien must demonstrate:

(A) Continuous maintenance of the terms and conditions of E–2 CNMI Investor nonimmigrant status;

(B) Physical presence in the CNMI at the time of filing the application for extension of stay; and

(C) That he or she did not leave during the pendency of the application.

(xiii) *Change of status.* An alien lawfully admitted to the United States in another valid nonimmigrant status who is continuing to maintain that status may apply to change nonimmigrant status to E–2 CNMI Investor in accordance with paragraph (e)(21) of this section, if otherwise eligible, including but not limited to having been in CNMI long-term investor status on the transition date and within the period provided by paragraph (e)(23)(v) of this section.

(xiv) *Expiration of initial transition period.* Upon expiration of the initial transition period, the E–2 CNMI Investor nonimmigrant status will automatically terminate.

(xv) *Fee waiver.* An alien applying for E–2 CNMI Investor nonimmigrant status is eligible for a waiver of the required fee for an application based upon inability to pay as provided by 8 CFR 103.7(c)(1).

(xvi) *Waiver of inadmissibility for applicants present in the CNMI.* An applicant for E–2 CNMI Investor nonimmigrant status, who is otherwise eligible for such status and otherwise admissible to the United States, and who has provided all appropriate documents as described in paragraph (e)(23)(vi) of this section, may be granted a waiver of inadmissibility under section 212(d)(3)(A)(ii) of the Act, including the grounds of inadmissibility described in sections 212(a)(6)(A)(i) (to the extent such grounds arise solely because of the alien's presence in the CNMI on November 28, 2009) and 212(a)(7)(B)(i)(II) of the Act, for the purpose of granting the E–2 CNMI Investor nonimmigrant status. Such waiver may be granted without additional form or fee required. In the case of an application by a spouse or child as described in paragraph (e)(23)(x) of this section who is present in the CNMI, the appropriate documents required for such waiver are a valid unexpired passport and evidence that the spouse or child is lawfully present in the CNMI under section 1806(e) of title 48, U.S. Code (which may include evidence of a grant of parole by USCIS or by the Department of Homeland Security pursuant to a grant of advance parole by USCIS in furtherance of section 1806(e) of title 48, U.S. Code).

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

■ 3. The authority citation for part 274a is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 48 U.S.C. 1806; 8 CFR part 2.

■ 4. Section 274a.12 is amended by:

■ a. Adding a new paragraph (b)(22); and by

■ b. Adding a new paragraph (c)(12) to read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

* * * * *

(b) * * *

(22) An alien in E–2 CNMI Investor nonimmigrant status pursuant to 8 CFR 214.2(e)(23). An alien in this status may be employed only by the qualifying company through which the alien attained the status. An alien in E–2 CNMI Investor nonimmigrant status may be employed only in the Commonwealth of the Northern Mariana Islands for a qualifying entity. An alien who attained E–2 CNMI Investor nonimmigrant status based upon a Foreign Retiree Investment Certificate or Certification is not employment-authorized. Employment authorization does not extend to the dependents of the principal investor (also designated E–2 CNMI Investor nonimmigrants) other than those specified in paragraph (c)(12) of this section;

* * * * *

(c) * * *

(12) An alien spouse of a long-term investor in the Commonwealth of the Northern Mariana Islands (E–2 CNMI Investor) other than an E–2 CNMI investor who obtained such status based upon a Foreign Retiree Investment Certificate, pursuant to 8 CFR 214.2(e)(23). An alien spouse of an

E–2 CNMI Investor is eligible for employment in the CNMI only;
* * * * *

Janet Napolitano,

Secretary.

[FR Doc. 2010–31652 Filed 12–17–10; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 25

[Docket ID OCC–2010–0021]

RIN 1557–AD34

FEDERAL RESERVE SYSTEM

12 CFR Part 228

[Docket No. R–1387]

RIN 7100–AD50

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 345

RIN 3064–AD60

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563e

[Docket ID OTS–2010–0031]

RIN 1550–AC42

Community Reinvestment Act Regulations

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision, Treasury (OTS).

ACTION: Joint final rule.

SUMMARY: The OCC, the Board, the FDIC, and the OTS (collectively, "the agencies") are adopting revisions to our rules implementing the Community Reinvestment Act (CRA). The agencies are revising the term "community development" to include loans, investments, and services by financial institutions that support, enable, or facilitate projects or activities that meet the "eligible uses" criteria described in Section 2301(c) of the Housing and Economic Recovery Act of 2008 (HERA), as amended, and are conducted in designated target areas identified in plans approved by the United States Department of Housing and Urban Development (HUD) under the Neighborhood Stabilization Program (NSP). The final rule provides favorable CRA consideration of such activities that, pursuant to the requirements of the program, benefit low-, moderate-, and middle-income individuals and geographies in NSP target areas designated as "areas of greatest need." Covered activities are considered both within an institution's assessment area(s) and outside of its assessment area(s), as long as the institution has adequately addressed the community development needs of its assessment area(s). Favorable consideration under the revised rule will be available until no later than two years after the last date appropriated funds for the program are required to be spent by the grantees. The agencies will provide reasonable advance notice to institutions in the **Federal Register** regarding termination of the rule once a date certain has been identified.

DATES: *Effective Date:* This joint final rule is effective January 19, 2011.

FOR FURTHER INFORMATION CONTACT: *OCC:* Michael S. Bylsma, Director, or Margaret Hesse, Special Counsel, Community and Consumer Law Division, (202) 874–5750; or Greg Nagel or Brian Borkowicz, National Bank Examiners, Compliance Policy, (202) 874–4428; Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Paul J. Robin, Manager, Reserve Bank Oversight and Policy, (202) 452–3140; or Jamie Z. Goodson, Attorney, (202) 452–3667; Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

FDIC: Janet Gordon, Senior Policy Analyst, Division of Supervision and Consumer Protection, (202) 898–3850 or Richard Schwartz, Counsel, Legal Division, (202) 898–7424; Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Stephanie M. Caputo, Senior Compliance Program Analyst, Compliance and Consumer Protection, (202) 906–6549; or Richard Bennett, Senior Compliance Counsel, Regulations and Legislation Division, (202) 906–7409; Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

The Community Reinvestment Act (CRA) requires the Federal banking and thrift regulatory agencies to assess the record of each insured depository institution in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the institution, and to take that record into account when the agency evaluates an application by the institution for a deposit facility.[1] The agencies have promulgated substantially similar regulations to implement the requirements of the CRA.[2]

There is a pressing need to provide housing-related assistance to stabilize communities affected by high levels of foreclosures. High levels of foreclosures have devastated communities and are projected to continue into 2012 and beyond with damaging spillover effects for low- and moderate-income census tracts, as well as middle-income census tracts, affected by high levels of loan delinquencies and foreclosures. Among the many consequences of high levels of foreclosures are growing inventories of vacant foreclosed properties and institution "other real estate owned" (OREO) properties, depreciating home values, declining property tax bases, and destabilization of communities directly affected by high levels of foreclosures and of adjacent and surrounding neighborhoods.

Neighborhood Stabilization Program (NSP)

Congress recognized the need to provide emergency assistance to address these problems with the establishment of the Neighborhood Stabilization Program (NSP) through Division B, Title III, of the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289 (2008). Under HERA, emergency funds ("NSP1") totaling nearly $4 billion for the redevelopment of abandoned and foreclosed properties were distributed to States and localities with the greatest need for such funds according to a formula based on the number and percentage of home foreclosures, the number and percentage of homes financed by a subprime mortgage-related loan, and the number and percentage of homes in default or delinquency in each State or unit of general local government. Under NSP1, each of the 50 States and Puerto Rico received a minimum award of $19.6 million and 254 local areas received

[1] 12 U.S.C. 2903.

[2] *See* 12 CFR parts 25, 228, 345, and 563e.

grants totaling $1.86 billion ranging from $2.0 million to $62.2 million.[3]

Using similar criteria, the American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111–5 (2009), provided supplementary NSP funding ("NSP2") to be awarded as grants, through a competitive bidding process, to State and local governments, as well as to non-profit organizations and consortia of non-profit entities. On January 14, 2010, HUD awarded a combined total of nearly $2 billion in NSP2 grants.[4] To receive NSP funding, each grantee was required to submit an action plan or application, including any amendments thereto, to HUD according to specific alternative requirements set out by HUD in 2008 and 2009.[5]

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), Public Law 111–203, enacted July 21, 2010, provided $1 billion in additional NSP funding to be allocated by a funding formula to be established by HUD within 30 days after enactment. Under the Dodd-Frank Act, HUD's funding formula will continue to consider the same criteria regarding foreclosure rates, subprime mortgages, and home mortgage defaults and delinquencies and each State will receive not less than 0.5 percent of the new funds. Each State or local government grantee must establish procedures to create preferences for the development of affordable rental housing for properties assisted with the funds made available under the Dodd-Frank Act.[6] On September 8, 2010, HUD announced the allocation of $970 million in NSP3 funding to 283 grantees nationwide and has issued guidance to grantees on the preparation and submission of action plans.

Section 2301(c) of HERA, as amended, establishes five activities that are "eligible uses" of NSP funds (for purposes of this rule, designated as "NSP-eligible activities"). NSP-eligible activities are projects or activities that use the NSP funds to: (1) Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-seconds, loan loss reserves, and shared equity loans for low- and moderate-income homebuyers; (2) purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties; (3) establish and operate land banks for homes and residential properties that have been foreclosed upon; (4) demolish blighted structures; and (5) redevelop demolished or vacant properties.[7] In addition, Section 2301(f)(3)(A) of HERA, as amended, provides that all NSP funds must be used with respect to individuals and families whose income does not exceed 120 percent of the area median income, and not less than 25 percent of funds must be used to house individuals and families whose incomes do not exceed 50 percent of area median income.[8]

HUD approves NSP action plans and applications, including amendments thereto (hereinafter referred to as "NSP plans" or "plans"), for all NSP grantees. These public documents must designate "areas of greatest need" for targeting NSP-eligible activities, consistent with statutory criteria. The vast majority of NSP-targeted areas are listed on a map database located on HUD's Web site at: *http://www.hud.gov/nspmaps.* However, there may be a few NSP-targeted geographies in HUD-approved State NSP1 plans that are not identified in the HUD census tract database. Information about these targeted areas may be found in the individual plans. NSP3 targeting data will periodically be added to these maps in a timely manner following approval of grantee action plans.

HUD has allocated NSP funds in a way that assists communities with the greatest need to address the adverse consequences of elevated foreclosure levels, consistent with Congressional intent. Allowing institutions to receive CRA consideration for NSP-eligible activities in NSP-targeted areas creates an opportunity to leverage government funding targeted to areas with high foreclosure or vacancy rates.

Proposed Rule

The definition of "community development" is a key definition in the agencies' CRA regulations. Financial institutions receive positive consideration in their CRA examinations for community development loans, qualified investments, and community development services which have a primary purpose of "community development."

The agencies proposed to revise the interagency CRA regulations by adding to the definition of "community development" loans, investments, and services that support, enable, or facilitate NSP-eligible activities in designated target areas identified in plans approved by HUD under the NSP.[9] For example, under the proposed revised definition of "community development," a financial institution would receive favorable CRA consideration for a donation of OREO properties to non-profit housing organizations in eligible middle-income, as well as low- and moderate-income, geographies. In addition, under the proposal, institutions would receive favorable CRA consideration if they provided financing for the purchase and rehabilitation of foreclosed, abandoned, or vacant properties in targeted areas. Other examples of activities that would receive favorable CRA consideration under the proposal are loans, investments, and services that support the redevelopment of demolished or vacant properties in such areas, consistent with eligible uses for NSP funds.

Although the CRA rules expressly encourage activities that benefit low- or moderate-income individuals or geographies, the agencies have created limited exceptions to address certain adverse circumstances that may affect middle-income individuals and geographies.[10] The agencies believe that the purposes of CRA can be served by providing CRA incentives to institutions to engage in community development loans, investments and services that meet the narrowly tailored requirements of the NSP. First, HUD has stated that its funding of these programs was designed to satisfy Congressional intent that the funds have maximum impact and be targeted to States and local communities with the greatest needs.[11] In addition, while, by its statutory terms, the NSP may benefit middle-income individuals, grantees must use at least 25 percent of their funds to

[3] *See* "Neighborhood Stabilization Grants," *http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/nsp1.cfm.*

[4] *See* "Neighborhood Stabilization Program 2," *http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/arrafactsheet.cfm.*

[5] 74 FR 21377 (May 7, 2009); 73 FR 58330 (Oct. 6, 2008).

[6] HUD published formula allocations and program requirements for NSP3 grants on October 19, 2010. *See* 75 FR 64322 (Oct. 19, 2010).

[7] NSP2 and NSP3 funds for redevelopment of demolished or vacant properties may be used only for housing.

[8] Section 1497 of the Dodd-Frank Act amended Section 2301(f)(3)(A) of HERA. Prior to this amendment, applicable to NSP1 and NSP2, not less than 25 percent of funds had to be used "for the purchase and redevelopment of abandoned or foreclosed homes and residential properties that will be used" to house individuals and families whose incomes do not exceed 50 percent of area median income.

[9] 75 FR 36016 (Jun. 24, 2010).

[10] 70 FR 44256 (Aug. 2, 2005), and 71 FR 18614 (Apr. 12, 2006).

[11] *See* HUD, NSP Frequently Asked Questions, *http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/pdf/nsp_faq_formula_allocation.pdf.*

house low-income individuals and families.

Under the current CRA rules, an institution is evaluated primarily on how well it helps meet the credit and community development needs of its CRA assessment area(s). However, the agencies note that many foreclosed residential properties owned by an institution may be located in areas that are outside of the institution's CRA assessment area(s). Restricting CRA consideration of NSP-eligible activities to an institution's assessment area(s) may not fully help to promote Congress's objectives for the NSP. Therefore, the proposed rule provided that an institution that has adequately addressed the community development needs of its assessment area(s) may receive favorable consideration for NSP-eligible activities under this provision that are outside of its assessment area(s).

There is precedent for allowing greater flexibility concerning the CRA focus on assessment area(s) in certain temporary and exigent circumstances. For example, in 2006, the agencies issued a supervisory policy statement providing that an institution would receive favorable CRA consideration for engaging in activities that helped revitalize or stabilize areas affected by Hurricanes Katrina and Rita, even if such areas were not in the institution's assessment area(s), provided the institution had adequately met the CRA-related needs of its assessment area(s).

Finally, the agencies stated their intention that the proposed rule be generally tied to the duration of the NSP. As described more fully below, the NSP does not have a "sunset" date. Therefore, a specific termination date for the regulatory provision was not proposed. Instead, the proposed rule provided that NSP-eligible activities would receive favorable consideration under the new rule if conducted no later than two years after the last date appropriated funds for the program are required to be spent by the grantees. The proposal indicated that the agencies will provide reasonable advance notice to institutions in the **Federal Register** regarding termination of the rule once a date certain has been identified.

The proposed rule would have imposed no new requirements on institutions. It simply would have expanded the categories of activities that qualify for CRA consideration as "community development." No institution would be required to provide loans, investments, or services pursuant to the proposed expanded definition. In addition, any community development loans that may be made by large institutions under the proposed new provision would be covered under existing loan reporting requirements. As such, no new reporting requirements and negligible, if any, administrative costs would result from the proposed rule if adopted. The agencies anticipated that the proposal, if finalized, would provide an incentive for institutions to engage in activities that stabilize foreclosure affected communities approved for NSP projects. Thus, the proposed rule would create an opportunity to leverage government funded projects with complementary private financing in areas targeted for assistance with minimal, if any, regulatory burden or costs.

Review of Comments on the Proposed Rule and Agencies' Final Rule

Together, the agencies received 34 comments addressing the proposed revision that would expand the definition of "community development." [12] The commenters represented a variety of industry, consumer, community development, and governmental entities. The commenters generally supported expanding the definition of "community development" to encourage housing-related assistance to stabilize communities affected by high levels of foreclosures and delinquencies.

In addition to a request for comments generally, the agencies asked for and received comment on five specific issues in connection with the proposal.

Activities Eligible for CRA Consideration: Virtually all of the commenters supported the intent of the proposed rule to permit CRA consideration, as a component of the regulatory "community development" definition, of loans, investments, and services that support activities that are NSP-eligible and are conducted in NSP-targeted areas. In particular, the agencies requested comment on whether favorable CRA consideration should be limited to support of those activities specified in a HUD-approved NSP plan for the relevant area or support of specific activities that have been funded by the NSP. The commenters that specifically addressed the question opposed limiting CRA consideration to such activities. For example, a community development organization stated that so limiting covered activities would unduly burden banks and examiners by requiring them to verify that an activity was covered by a plan.

A few industry and government commenters suggested that the agencies adopt a broader rule that provides express CRA consideration for activities that are not NSP-eligible and/or are outside of geographies covered in NSP-targeted areas. Several other commenters stated that the agencies should provide consideration for activities that are NSP-eligible, but are not specifically covered in the underlying NSP plans. By contrast, six community development organizations that target low- and moderate-income communities stated that donations of OREO in poor condition can carry associated costs and liability for a receiving organization. These organizations recommended providing favorable CRA consideration for such donations only if they are consistent with local and/or regional government or nonprofit plans and the donor institutions fund associated costs, such as demolition and environmental remediation costs. The agencies will consider the credit given to donations of OREO as part of their general regulatory review of CRA regulations.

The agencies have considered the comments on the scope of the "community development" definition and are adopting the revision to the definition as proposed, with only minor changes to statutory references. This revision to the definition of "community development" is narrowly tailored to encourage financial institutions to support stabilization efforts in targeted areas identified by the Federal government as having greater need for assistance as a result of the foreclosure crisis. Commenters opposed limiting favorable CRA consideration to those NSP-eligible activities expressly described in NSP plans or to those funded by NSP programs, as discussed above. The agencies note that the final rule allows institutions to receive CRA consideration for supporting, enabling, or facilitating NSP-eligible activities in the geographic areas targeted in NSP program plans.

As noted above, the agencies believe that allowing institutions to receive CRA consideration for supporting, enabling, or facilitating NSP-eligible activities in NSP-targeted areas will help to leverage scarce government funding to those designated areas with the greatest need for such activities. Finalization of this rule will provide an immediate incentive for institutions to undertake activities that will support the stabilization of areas targeted for NSP-initiatives.

[12] The Board also received over 650 other comments that stated that banks should not receive an "outstanding" rating if they contributed to economic decline and should assist their communities, should not be allowed to pick the geographic area or affiliates considered, and should get a "failing" rating if they discriminate against African-American and Latino communities.

In addition, the agencies note that, under the current CRA rules and interagency guidance, CRA consideration is already available for some neighborhood stabilization activities. First, revitalization and stabilization activities in low- and moderate-income geographies or in distressed or underserved nonmetropolitan middle-income geographies receive positive consideration under the existing CRA rules, regardless of whether these areas are targeted areas under the NSP.[13] Similarly, foreclosure prevention programs may also receive positive CRA consideration, for example, if they are part of a loan program that is designed to provide sustainable relief to homeowners facing foreclosure on their primary residences or if they help to revitalize or stabilize low- or moderate-income geographies.[14] In addition, below-market sales and donations of OREO properties to nonprofit organizations, consistent with safe and sound banking operations, also may receive positive consideration under the existing CRA rules. The CRA rules provide favorable consideration for grants, which would include an in-kind donation of property. If these grants have a primary purpose of community development, such as to provide affordable housing to low- and moderate-income individuals, they also would already receive positive CRA consideration as a qualified investment.[15] Further, favorable CRA consideration is given for technical assistance about financial services to community-based groups, local or Tribal government agencies, or intermediaries that help to meet the credit needs of low- and moderate-income individuals or small businesses and farms.[16]

Favorable CRA consideration also is available for certain activities involving multifamily housing.[17] In addition, economic development activities not directly related to housing may qualify for favorable CRA consideration. For example, "qualified investments" for which favorable CRA consideration may be given include investments, grants, deposits, or shares in or to organizations supporting activities essential to the capacity of low- and moderate-income individuals or geographies to utilize credit or to sustain economic development.[18]

Finally, the agencies note that they have begun a regulatory review of the CRA rules generally, and as part of that regulatory review, the agencies will carefully consider any comments received through this rulemaking that may recommend further changes to the definition of "community development."[19]

Reference to Statutes Appropriating Funds to NSP: In the proposal, the regulatory text specifically referred to the two statutes that authorized funds under NSP1 and NSP2, the HERA and the American Recovery and Reinvestment Act of 2009, respectively. As stated above, since the agencies issued their proposal, Congress provided an additional $1 billion to the NSP under the Dodd-Frank Act. Based on this additional authorization and the fact that the rule's reference to the NSP now covers any of that program's iterations (thus far NSP1, NSP2, and NSP3), the agencies need to amend the final regulatory language to account for these funds. Rather than add a reference to the Dodd-Frank Act, and thereafter amend the rule whenever a statute provides additional funds, the agencies have revised § __.12(g)(5)(i) to refer solely to HERA.[20]

Sunset: The duration of the agencies' proposed rule was generally linked to the duration of the NSP. Under NSP1, grantees must expend NSP funds within four years of the date the grant is awarded. Under NSP2, grantees have three years from that date to fully spend the grant, and HUD was required to obligate all funds appropriated for NSP2 in February 2010. The funds appropriated in the Dodd-Frank Act also must be fully expended by grantees within three years after they receive their grants, and HUD is required to obligate all funds appropriated by the Dodd-Frank Act by July 2011. Since the NSP does not have a termination date, Congress could appropriate additional funds for the program in future years. Therefore, a specific termination date for the regulatory provision was not proposed. Instead, the proposed rule provided that NSP-eligible activities would receive favorable consideration under the new rule if conducted no later than two years after the last date appropriated funds for the program are required to be spent by the grantees.

Most commenters supported the proposal to allow CRA consideration of qualifying loans, investments, and services that are provided no later than two years after the last date appropriated funds for the program are required to be spent by grantees. A few commenters stated that there should be no "sunset" date. These commenters asserted that need for NSP-eligible activities will remain even after Federal funding is no longer available; continuing CRA consideration would encourage financial institutions to help to meet those needs.

The agencies carefully considered these comments and are adopting the revision as proposed. The agencies believe that two years after the last date appropriated funds for the program are required to be spent by grantees generally allows sufficient time for institutions to engage in meaningful community development activities in NSP-targeted areas. As indicated in the proposal, the agencies will provide reasonable advance notice to institutions in the **Federal Register** regarding termination of the rule once a certain date has been identified.

Benefit to Low-, Moderate-, and Middle-Income Communities: As noted above, the CRA rules expressly encourage activities that benefit low- or moderate-income individuals or geographies. Nevertheless, to address certain adverse circumstances, the agencies have created limited exceptions to permit favorable consideration of activities that benefit middle-income individuals and geographies in addition to low- and moderate-income individuals and geographies.[21]

Most commenters supported the expansion to permit CRA consideration of activities that may benefit middle-

[13] 12 CFR 25.12(g)(4), 228.12(g)(4), 345.12(g)(4), and 563e.12(g)(4).

[14] Interagency Questions and Answers Regarding Community Reinvestment (Questions and Answers), 75 FR 11642, 11647, 11650–51, 11654–55 (Mar. 11, 2010) (Q&As § ____.12(g)(4)(i)–1, § ____.12(i)–3, and § ____.22(a)–1).

[15] Questions and Answers, 75 FR at 11652–53 (Q&A § ____.12(t)–5).

[16] Questions and Answers, 75 FR at 11650–51, 11657 (Q&As § ____.12(i)–1, § ____.12(i)–3, and § ____.22(b)(5)–1).

[17] Under the agencies' current CRA regulations, "community development" includes activities related to affordable multifamily housing, and a "community development loan" includes construction and permanent financing of multifamily rental property serving low- and moderate-income persons. 12 CFR 25.12(g)(1), 228.12(g)(1), 345.12(g)(1), and 563e.12(g)(1); Questions and Answers, 75 FR at 11648 (Q&A § ____.12(h)–1). Further, a "home mortgage loan" includes a multifamily dwelling loan, and a "qualified investment" includes an investment, grant, deposit, or share in organizations engaged in rehabilitating or constructing affordable multifamily rental housing. Questions and Answers, 75 FR at 11651–52 (Q&As § ____.12(*l*)–1 and § ____.12(t)–4).

[18] Questions and Answers, 75 FR at 11652 (Q&A § ____.12(t)–4).

[19] *See* 75 FR 35686 (Jun. 23, 2010).

[20] In the proposed rule text, the agencies referred to Section 2301(c)(3) of the HERA with regard to that provision's NSP "eligible uses" definition. Section 2301(c)(3) was changed to 2301(c)(4) in the Helping Families Save Their Homes Act of 2009, Public Law 111–22, § 105(a) (2009). Rather than change the reference in the regulatory text, and risk having to change that reference in the future, the agencies are using the term "eligible uses" and referring to Section 2301(c) generally.

[21] 70 FR 44256 (Aug. 2, 2005) and 71 FR 18614 (Apr. 12, 2006).

income individuals and communities, consistent with the NSP program. Although a few of these commenters emphasized that the focus of CRA should continue to be on low- and moderate-income households and neighborhoods, the commenters supported the proposal to redefine "community development" to align with NSP-eligible activities in designated areas identified in plans approved by HUD.

After careful review of these comments and as proposed, the agencies are including activities that benefit middle-income individuals and geographies among the activities for which the agencies may provide favorable CRA consideration under the final rule.

Recognition of NSP–Eligible Activities Outside of Assessment Area(s): Under the current CRA rules, an institution is evaluated primarily on how it helps meet the credit and community development needs of its CRA assessment area(s). However, many foreclosed properties owned by an institution may be located in areas that are outside of the institution's CRA assessment area(s). As noted in the proposal, restricting CRA consideration of NSP-eligible activities to an institution's assessment area(s) may not fully help to promote Congress's objectives for the NSP. Therefore, the proposed rule provided that an institution that has adequately addressed the community development needs of its assessment area(s) may receive favorable consideration for NSP-eligible activities under this provision that are outside of its assessment area(s). The agencies also specifically asked for comment on this aspect of the proposal.

The commenters that addressed this issue unanimously supported allowing CRA consideration for NSP projects outside of an institution's assessment area(s), provided the institution has met the community development needs within its assessment area(s). Several commenters suggested that the agencies should issue additional guidance on, for example, how financial institutions may demonstrate that they have adequately met the needs in their assessment area(s) and how outside-the-assessment area activities will be allocated toward an institution's State-wide and overall CRA ratings. One financial institution trade association suggested that community banks receive favorable CRA consideration for NSP-eligible activities in the banks' assessment areas whether or not the area is in an NSP-targeted area.

The agencies carefully considered these comments and are adopting the rule as proposed. The final rule, like the proposal, allows institutions to receive favorable consideration for activities that benefit low-, moderate-, and middle-income individuals and geographies in the institution's assessment area(s) or areas outside the bank's assessment area(s) provided the institution has adequately addressed the community development needs of its assessment area(s). To the extent additional guidance may be needed on this provision, the agencies will consider it in connection with a future revision of the Interagency Questions and Answers Regarding Community Reinvestment or examination procedures.

Potential Costs and Benefits: Only five commenters directly responded to the agencies' request for comment on the potential costs and benefits of the proposed rule, if adopted. Most of these commenters predicted there would be only negligible costs associated with the proposed revision, typically in the form of additional administrative costs, including capturing loan data, and training. These commenters generally thought that the rule would result in some benefit to communities affected by the foreclosure crisis. A trade association of community banks and a financial institution stated that they anticipate additional administrative costs for loan documentation and reporting and for staff training if the proposed rule is adopted but did not estimate those costs.

Effect on an Institution's Decisions about Community Development Activities: The agencies also asked for specific comment about whether and the extent to which the proposed rule, if adopted, would affect an institution's decisions about the amount, type, and location of community development loans, investments, and services it will provide. Four of the five commenters that addressed this request for comment believed that the rule would affect positively an institution's decisions about the types and amount of community development activities it will provide. The other commenter stated that the rule would provide an incentive for institutions to engage in NSP-eligible activities, but might not substantially alter institutions' general CRA decision-making.

Effective Date

The final rule becomes effective 30 days after publication in the **Federal Register.** That effective date is consistent with section 553 of the Administrative Procedure Act, which provides that a substantive rule may not be made effective until 30 days after publication in the **Federal Register,** with specified exceptions. 5 U.S.C. 553(d). Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI) provides that regulations prescribed by a Federal banking agency that contain additional reporting, disclosure, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions. 12 U.S.C. 4802(b). Section 302 of the CDFR does not apply to this final rule because the final rule does not prescribe additional reporting, disclosures, or other new requirements on insured depository institutions. As discussed in detail above in the **SUPPLEMENTARY INFORMATION,** the final rule instead expands the types of activities for which such institutions may receive favorable CRA consideration.

Regulatory Analysis

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 3506; 5 CFR part 1320 Appendix A.1), each agency reviewed its final rule and determined that there are no collections of information. The final rule would expand the types of activities that qualify for CRA consideration, if an institution chooses to engage in them, but it would not impose any new requirements, including paperwork requirements. The overall cost of this final rule is expected to be negligible, at most. The amendments could have a negligible effect on burden estimates for existing information collections, including recordkeeping requirements for community development loans.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires agencies that are issuing a final rule to prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the final rule on small entities.[22] The RFA provides that agencies are not required to prepare and publish a regulatory flexibility act analysis if the agencies certify that the final rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.[23] The Small Business Administration (SBA) has defined "small entities" for banking purposes as a bank or savings association with $175 million or less in

[22] *See* 5 U.S.C. 603(a).

[23] *See* 5 U.S.C. 605(b).

assets.[24] 13 CFR 121.201. Each agency has reviewed the impact of this final rule on the small entities subject to its regulation and supervision and addresses the RFA requirements, as appropriate, below.

OCC: The OCC has reviewed the final amendments to Part 25. The final rule would expand the definition of the term "community development," which is applied in the CRA regulations' performance tests. However, the final rule does not impose new requirements on small entities because the CRA performance test for small entities (as defined above) does not require community development activities. Rather, the final rule reduces burden by expanding the types of community development activities for which institutions may receive CRA consideration. Only 605 national banks are small entities based on the SBA's general principles of affiliation (13 CFR 121.103(a)) and the size threshold for commercial banks and trust companies. The OCC reviewed national banks with assets of less than $175 million that are evaluated under the lending, investment, and service tests, which are normally applicable to large banks, the community development test, which is applicable to wholesale and limited purpose banks, and the community development performance factor applicable to intermediate small banks. As of June 30, 2010, only 13 of the 605 national banks that are small entities would be evaluated on their community development activities under these examination types. The rest would be evaluated under the small bank examination procedures, which do not require consideration of community development activities. The OCC has determined and therefore certifies, pursuant to section 605(b) of the RFA, that the final rule will not have a significant economic impact on a substantial number of small entities.

OTS: The OTS has reviewed the final amendments to Part 563e. The final rule would expand the definition of the term "community development," which is applied in the CRA regulations' performance tests. However, the final rule does not impose new requirements on small entities because the CRA performance test for small entities (as defined above) does not require community development activities. Rather, the final rule reduces burden by expanding the types of community development activities for which institutions may receive CRA consideration. The Small Business Administration (SBA) has defined "small entities" for banking purposes as a savings association with $175 million or less in assets. *See* 13 CFR 121.201. As of September 23, 2010, only 361 OTS-regulated thrifts are small entities with assets of $175 million or less. However, also as of that date, only three of those small savings associations are wholesale or limited purpose savings associations whose community development activities would be evaluated as an automatic part of the CRA examination process. Another three are special purpose savings associations not subject to CRA. The OTS has determined and therefore certifies, pursuant to section 605(b) of the RFA, that the final rule will not have a significant economic impact on a substantial number of small entities.

FDIC: The FDIC has reviewed the proposed amendments to part 345. The proposal does not impose new requirements on small entities because the CRA performance test for small entities (as defined above) does not require community development activities. Rather, the proposed rule reduces burden by expanding the types of community development activities for which institutions may receive CRA consideration. As of June 30, 2010, FDIC regulated entities under the SBA's size criteria, with assets of less than $175 million, totaled 2840. However, also as of that date, only 5 of those banks that are small entities would be required to engage in community development activities under the examination types that include such consideration. The FDIC has determined and therefore certifies, pursuant to section 605(b) of the RFA, that the final rule will not have a significant economic impact on a substantial number of small entities.

Board: The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) requires an agency to perform an initial and final regulatory flexibility analysis on the impact a rule is expected to have on small entities. The Small Business Administration has defined "small entities" for banking purposes as a banking organization with $175 million or less in assets. *See* 13 CFR 121.201. The Board received no comments directly addressing the initial regulatory flexibility analysis. The Board has prepared the following final regulatory flexibility analysis pursuant to section 604 of the RFA.

1. *Statement of the need for, and objectives of, the final rule.* As explained above in the supplementary information, the Board believes that it is desirable to expand eligibility for favorable CRA consideration to NSP-eligible activities and areas, in order to provide financial institutions incentives to leverage NSP funding by providing loans, investments, and services in areas with high foreclosure or vacancy rates. The final rule expands the definition of the term "community development," which is applied in the CRA regulations' performance tests. However, it does not impose new requirements on small entities because the CRA performance test for small entities does not require community development activities. Rather, the final rule expands the types of community development activities for which institutions may receive CRA consideration.

2. *Summary of the significant issues raised by public comment in response to the Board's initial analysis, the Board's assessment of such issues, and a statement of any changes made as a result of such comments.* The Board published an initial regulatory flexibility analysis in connection with the proposed rule and requested comment on the effect of the proposed rule on small entities. *See* 75 FR 36016, 36020 (Jun. 24, 2010). The Board received no comments specifically addressing the Board's initial regulatory flexibility analysis. A financial institution trade association and a bank stated that institutions that seek CRA consideration for covered activities under a final rule would incur administrative costs, such as costs for documentation of activities and training. Those commenters did not estimate those costs or indicate that they especially affect small entities. The Board made no changes to the proposed rule based on public comment regarding costs associated with the final rule, because entities are not required to seek CRA consideration for covered activities under the final rule. Rather, entities may continue to seek CRA consideration for activities included in the definition of "community development" prior to the expansion of that definition by this final rule.

3. *Small entities affected by the final rule.* As of June 2010, the Board supervised 392 banking organizations that meet the definition of small entities, all of which are subject to the final rule.

4. *Recordkeeping, reporting, and compliance requirements.* The final rule does not impose any new recordkeeping or reporting requirements, as the final rule does not require supervised banking organizations to engage in community development activities. Institutions that elect to seek credit for community development activities

[24] A financial institution's assets are determined by averaging the assets reported on its four immediately preceding full quarterly financial statements.

under the expanded "community development" definition under the final rule will need to maintain documentation regarding those activities.

5. *Significant alternatives to the final revisions.* Given that the final rule does not require institutions to fund NSP-eligible activities and reduces burdens and restrictions on CRA funding in general, the Board does not believe any other alternatives would accomplish the stated objectives while minimizing burden of the final rule. The legal basis of the final rule is in CRA Section 806, 12 U.S.C. 2905. The final rule expands the definition of the term "community development," which is applied in the CRA regulations' performance tests. However, it does not impose new requirements on small entities because the CRA performance test for small entities does not require community development activities. Rather, the final rule expands the types of community development activities for which institutions may receive CRA consideration.

OTS Executive Order 12866 Consideration

Pursuant to Executive Order 12866, OMB's Office of Information and Regulatory Affairs (OIRA) designated the proposed rule to be significant but did not determine whether the proposal would have an annual effect on the economy of $100 million or more. OTS solicited comment on the costs and benefits of the proposed rule, if adopted.

As summarized elsewhere in the **SUPPLEMENTARY INFORMATION**, five commenters directly addressed the issue. In general, these commenters predicted there would be only negligible costs associated with the proposed revision, typically in the form of additional administrative costs, including capturing loan data and training. A trade association of community banks and a financial institution stated that they anticipate additional administrative costs for loan documentation and reporting and for staff training if the proposed rule is adopted but did not estimate those costs. Another financial institution indicated that since no new reporting requirements would be imposed, it did not foresee any incremental costs beyond the cost of doing business. Similarly, a trade association for home builders indicated the costs would be negligible since the rule would not place any new requirements on financial institutions. A State banking department said there appears to be few, if any, costs.

Even the potential negligible costs would only apply to those savings associations that choose to seek CRA consideration for engaging in NSP-eligible activities under the new provision promulgated in today's final rule. As discussed elsewhere in the **SUPPLEMENTARY INFORMATION**, including the Regulatory Flexibility Act Analysis, many savings associations are not evaluated for community development activities. Small savings associations (currently defined as those with under $274 million in assets, 12 CFR 563e.12(u)(1)) are only evaluated for community development under the small institution test "as appropriate," in other words, when it is necessary to determine if they meet or exceed the standards for a satisfactory rating or at their request. 12 CFR part 563e; Questions and Answers, 75 FR at 11662 (Q&A § ____.26(b)–2). Currently, 471 of the 741 savings associations are small.

Further, as discussed elsewhere in the **SUPPLEMENTARY INFORMATION**, even without the new provision in today's final rule, CRA consideration has already been available for some neighborhood stabilization activities under the pre-existing CRA rules and interagency guidance. Revitalization and stabilization activities in low- and moderate-income geographies or in distressed or underserved nonmetropolitan middle-income geographies receive positive consideration under the existing CRA rules, regardless of whether these areas are targeted areas under the NSP. Foreclosure prevention programs may also receive positive CRA consideration, for example, if they are part of a loan program that is designed to provide sustainable relief to homeowners facing foreclosure on their primary residences or if they help to revitalize or stabilize low- or moderate-income geographies. Below-market sales and donations of OREO properties to nonprofit organizations, consistent with safe and sound banking operations, also may receive positive consideration under the existing CRA rules. The CRA rules provide favorable consideration for grants, which would include an in-kind donation of property; if these grants have a primary purpose of community development, such as to provide affordable housing to low- and moderate-income individuals, they also would already receive positive CRA consideration as a qualified investment. Favorable CRA consideration is given for technical assistance about financial services to community-based groups, local or Tribal government agencies, or intermediaries that help to meet the credit needs of low- and moderate-income individuals or small businesses and farms. Favorable CRA consideration is available for certain activities involving multifamily housing. Economic development activities not directly related to housing may qualify for favorable CRA consideration.

These commenters generally thought that the rule would result in some benefit to communities affected by the foreclosure crisis. Four of the five commenters that addressed the issue believed that the rule would affect positively an institution's decisions about the types and amount of community development activities it will provide. These comments were from a trade association for State banking supervisors, a State banking department, a trade association for home builders, and a financial institution. The other commenter, another financial institution, indicated that the rule would provide an incentive for institutions to engage in NSP-eligible activities, but might not substantially alter institutions' general CRA decision-making.

As discussed elsewhere in the **SUPPLEMENTARY INFORMATION**, the duration of the final rule is generally linked to the duration of the NSP. Under NSP1, grantees must expend NSP funds within four years of the date the grant is awarded. Under NSP2, grantees have three years from that date to fully spend the grant, and HUD was required to obligate all funds appropriated for NSP2 in February 2010. The funds appropriated in the Dodd-Frank Act also must be fully expended by grantees within three years after they receive their grants, and HUD is required to obligate all funds appropriated by the Dodd-Frank Act by July 2011. The final rule provides that NSP-eligible activities will receive favorable consideration under the new rule if conducted no later than two years after the last date appropriated funds for the program are required to be spent by the grantees. After that date, the rule will cease to apply.

In light of the foregoing, OIRA has designated the final rule to be significant but not to have an annual effect on the economy of $100 million or more.

OCC and OTS Unfunded Mandates Reform Act of 1995 Determination

Section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act) (2 U.S.C. 1532) requires that covered agencies prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in

the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires covered agencies to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC and the OTS have determined that this final rule will not result in expenditures by State, local, and Tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, neither agency has prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

The Treasury and General Government Appropriations Act, 1999—Assessment of Impact of Federal Regulation on Families

The FDIC has determined that this final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 105–277 (5 U.S.C. 601 note).

List of Subjects

12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

12 CFR Part 228

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

12 CFR Part 345

Banks, Banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

12 CFR Part 563e

Community development, Credit, Investments, Reporting and recordkeeping requirements, Savings associations.

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons discussed in the joint preamble, the Office of the Comptroller of the Currency amends part 25 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 25—COMMUNITY REINVESTMENT ACT AND INTERSTATE DEPOSIT PRODUCTION REGULATIONS

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), 1835a, 2901 through 2907, and 3101 through 3111.

■ 2. In § 25.12:
■ a. Republish the introductory text of paragraph (g);
■ b. Remove the word "or" at the end of paragraph (g)(3);
■ c. Remove the period at the end of paragraph (g)(4)(iii)(B) and add "; or" in its place; and
■ d. Add a new paragraph (g)(5).

The republication and addition read as follows:

§ 25.12 Definitions.

* * * * *

(g) *Community development* means:

* * * * *

(5) Loans, investments, and services that—

(i) Support, enable or facilitate projects or activities that meet the "eligible uses" criteria described in Section 2301(c) of the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. 2654, as amended, and are conducted in designated target areas identified in plans approved by the United States Department of Housing and Urban Development in accordance with the Neighborhood Stabilization Program (NSP);

(ii) Are provided no later than two years after the last date funds appropriated for the NSP are required to be spent by grantees; and

(iii) Benefit low-, moderate-, and middle-income individuals and geographies in the bank's assessment area(s) or areas outside the bank's assessment area(s) provided the bank has adequately addressed the community development needs of its assessment area(s).

* * * * *

Federal Reserve System

12 CFR Chapter II

Authority and Issuance

■ For the reasons set forth in the joint preamble, the Board of Governors of the Federal Reserve System amends part 228 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 228—COMMUNITY REINVESTMENT (REGULATION BB)

■ 1. The authority citation for part 228 continues to read as follows:

Authority: 12 U.S.C. 321, 325, 1828(c), 1842, 1843, 1844, and 2901 *et seq.*

■ 2. In § 228.12:
■ a. Republish the introductory text of paragraph (g);
■ b. Remove the word "or" at the end of paragraph (g)(3);
■ c. Remove the period at the end of paragraph (g)(4)(iii)(B) and add "; or" in its place; and
■ d. Add a new paragraph (g)(5).

The republication and addition read as follows:

§ 228.12 Definitions.

* * * * *

(g) *Community development* means:

* * * * *

(5) Loans, investments, and services that—

(i) Support, enable or facilitate projects or activities that meet the "eligible uses" criteria described in Section 2301(c) of the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. 2654, as amended, and are conducted in designated target areas identified in plans approved by the United States Department of Housing and Urban Development in accordance with the Neighborhood Stabilization Program (NSP);

(ii) Are provided no later than two years after the last date funds appropriated for the NSP are required to be spent by grantees; and

(iii) Benefit low-, moderate-, and middle-income individuals and geographies in the bank's assessment area(s) or areas outside the bank's assessment area(s) provided the bank has adequately addressed the community development needs of its assessment area(s).

* * * * *

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

■ For the reasons set forth in the joint preamble, the Board of Directors of the Federal Deposit Insurance Corporation amends part 345 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 345—COMMUNITY REINVESTMENT

■ 1. The authority citation for part 345 continues to read as follows:

Authority: 12 U.S.C. 1814–1817, 1819–1920, 1828, 1831u and 2901–2907, 3103–3104, and 3108(a).

■ 2. In § 345.12:

■ a. Republish the introductory text of paragraph (g);

■ b. Remove the word "or" at the end of paragraph (g)(3);

■ c. Remove the period at the end of paragraph (g)(4)(iii)(B) and add "; or" in its place; and

■ d. Add a new paragraph (g)(5).

The republication and addition read as follows:

§ 345.12 Definitions.

* * * * *

(g) *Community development* means:

* * * * *

(5) Loans, investments, and services that—

(i) Support, enable or facilitate projects or activities that meet the "eligible uses" criteria described in Section 2301(c) of the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. 2654, as amended, and are conducted in designated target areas identified in plans approved by the United States Department of Housing and Urban Development in accordance with the Neighborhood Stabilization Program (NSP);

(ii) Are provided no later than two years after the last date funds appropriated for the NSP are required to be spent by grantees; and

(iii) Benefit low-, moderate-, and middle-income individuals and geographies in the bank's assessment area(s) or areas outside the bank's assessment area(s) provided the bank has adequately addressed the community development needs of its assessment area(s).

* * * * *

Department of the Treasury

Office of Thrift Supervision

12 CFR Chapter V

■ For the reasons set forth in the joint preamble, the Office of Thrift Supervision amends part 563e of chapter V of title 12 of the Code of Federal Regulations as follows:

PART 563e—COMMUNITY REINVESTMENT

■ 1. The authority citation for part 563e continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1467a, 1814, 1816, 1828(c), and 2901 through 2907.

■ 2. In § 563e.12:

■ a. Republish the introductory text of paragraph (g);

■ b. Remove the word "or" at the end of paragraph (g)(3);

■ c. Remove the period at the end of paragraph (g)(4)(iii)(B) and add "; or" in its place; and

■ d. Add a new paragraph (g)(5).

The republication and addition read as follows:

§ 563e.12 Definitions.

* * * * *

(g) *Community development* means:

* * * * *

(5) Loans, investments, and services that—

(i) Support, enable or facilitate projects or activities that meet the "eligible uses" criteria described in Section 2301(c) of the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. 2654, as amended, and are conducted in designated target areas identified in plans approved by the United States Department of Housing and Urban Development in accordance with the Neighborhood Stabilization Program (NSP);

(ii) Are provided no later than two years after the last date funds appropriated for the NSP are required to be spent by grantees; and

(iii) Benefit low-, moderate-, and middle-income individuals and geographies in the savings association's assessment area(s) or areas outside the savings association's assessment area(s) provided the savings association has adequately addressed the community development needs of its assessment area(s).

* * * * *

Dated: December 8, 2010.

John Walsh,

Acting Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, December 13, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

Dated at Washington, DC, this 14th day of December 2010.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

Dated: December 9, 2010.

By the Office of Thrift Supervision.

John E. Bowman,

Acting Director.

[FR Doc. 2010–31818 Filed 12–17–10; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064–AD69

Designated Reserve Ratio

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: To implement a comprehensive, long-range management plan for the Deposit Insurance Fund (DIF or fund), the FDIC is amending its regulations to set the designated reserve ratio (DRR) at 2 percent.

DATED: *Effective Date:* January 1, 2011.

FOR FURTHER INFORMATION CONTACT: Munsell St. Clair, Chief, Banking and Regulatory Policy Section, (202) 898–8967, Christopher Bellotto, Counsel, (202) 898–3801, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

A. Governing Statutes

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), which was enacted on July 21, 2010, gave the FDIC much greater discretion to manage the DIF, including where to set the DRR. Among other things, Dodd-Frank: (1) Raises the minimum DRR, which the FDIC is required to set each year, to 1.35 percent (from the former minimum of 1.15 percent) and removes the upper limit on the DRR (which was formerly capped at 1.5 percent) and consequently on the size of the fund; [1] (2) requires that the fund reserve ratio reach 1.35 percent by September 30, 2020 (rather than 1.15 percent by the end of 2016, as formerly required); [2] (3) requires that, in setting assessments, the FDIC "offset the effect of [requiring that the reserve ratio reach 1.35 percent by September 30, 2020 rather than 1.15 percent by the end of 2016] on insured depository institutions with total consolidated assets of less than $10,000,000,000"; [3] (4) eliminates the requirement that the FDIC provide dividends from the fund when the reserve ratio is between 1.35 percent and 1.5 percent; [4] and (5) continues the FDIC's authority to declare dividends when the reserve ratio at the end of a

[1] Public Law 111–203, sec. 334(a), 124 Stat. 1376, 1539 (to be codified at 12 U.S.C. 1817(b)(3)(B)).

[2] Public Law 111–203, sec. 334(d), 124 Stat. 1376, 1539 (to be codified at 12 U.S.C. 1817(nt)).

[3] Public Law 111–203, sec. 334(e), 124 Stat. 1376, 1539 (to be codified at 12 U.S.C. 1817(nt)).

[4] Public Law 111–203, sec. 332(d), 124 Stat. 1376, 1539 (to be codified at 12 U.S.C. 1817(e)).

calendar year is at least 1.5 percent, but grants the FDIC sole discretion in determining whether to suspend or limit the declaration or payment of dividends.[5]

The Federal Deposit Insurance Act (FDI Act) continues to require that the FDIC's Board of Directors consider the appropriate level for the DRR annually and, if changing the DRR, engage in notice-and-comment rulemaking before the beginning of the calendar year.[6]

B. Notice of Proposed Rulemaking on Assessment Dividends, Assessment Rates and the Designated Reserve Ratio

In October 2010, the FDIC adopted a Notice of Proposed Rulemaking on Assessment Dividends, Assessment Rates and the Designated Reserve Ratio setting out a comprehensive, long-range management plan for the DIF that was designed to: (1) Reduce the pro-cyclicality in the existing risk-based assessment system by allowing moderate, steady assessment rates throughout economic and credit cycles; and (2) maintain a positive fund balance even during a banking crisis by setting an appropriate target fund size and a strategy for assessment rates and dividends (the October NPR).[7]

During an economic and banking downturn, insured institutions can least afford to pay high deposit insurance assessment rates. Moreover, high assessment rates during a downturn reduce the amount that banks can lend when the economy most needs new lending. For these reasons, it is important to reduce pro-cyclicality in the assessment system and allow moderate, steady assessment rates throughout economic and credit cycles. At a September 24, 2010 roundtable organized by the FDIC, bank executives and industry trade group representatives uniformly favored steady, predictable assessments and found high assessment rates during crises objectionable.[8]

It is also important that the fund not decline to a level that could risk undermining public confidence in Federal deposit insurance. Furthermore, although the FDIC has significant authority to borrow from the Treasury to cover losses when the fund balance approaches zero, the FDIC views the Treasury line of credit as available to cover unforeseen losses, not as a source of financing projected losses.

Setting the DRR at 2 percent is an integral part of the FDIC's comprehensive, long-range management plan for the DIF. A fund that is sufficiently large is a necessary precondition to maintaining a positive fund balance during a banking crisis and allowing for long-term, steady assessment rates.

In developing the long-range management plan, the FDIC analyzed historical fund losses and used simulated income data from 1950 to the present to determine how high the reserve ratio would have had to be before the onset of the two banking crises that occurred during this period to maintain a positive fund balance and stable assessment rates. The analysis, which was detailed in the October NPR, concluded that moderate, long-term average industry assessment rates, combined with an appropriate dividend or assessment rate reduction policy, would have been sufficient to prevent the fund from becoming negative during the crises. The FDIC also found that the fund reserve ratio would have had to exceed 2 percent before the onset of the crises to achieve these results.[9]

Based on this analysis and the statutory factors that the FDIC must consider when setting the DRR, the FDIC proposed setting the DRR at 2 percent. The FDIC noted that it views the proposed 2 percent DRR as both a long-term goal and the *minimum* level needed to withstand a future crisis of the magnitude of past crises. Because analysis shows that a reserve ratio higher than 2 percent increases the chance that the fund will remain positive during such a crisis, the FDIC does not view the 2 percent DRR as a cap on the size of the fund.

In the October NPR, pursuant to its analysis and its statutory authority to set risk-based assessments, the FDIC also proposed assessment rate schedules. The FDIC proposed that a moderate assessment rate schedule based on the long-term average rate needed to maintain a positive fund balance take effect when the fund reserve ratio exceeds 1.15 percent.[10] This schedule would be lower than the current schedule. In addition, to increase the probability that the fund reserve ratio will reach a level sufficient to withstand a future crisis, the FDIC, based on its authority to suspend or limit dividends, proposed suspending dividends when the fund reserve ratio exceeds 1.5 percent.[11] In lieu of dividends, and pursuant to its authority to set risk-based assessments, the FDIC proposed to adopt progressively lower assessment rate schedules when the reserve ratio exceeds 2 percent and 2.5 percent. These lower assessment rate schedules would serve much the same function as dividends, but would provide more stable and predictable assessment rates.

C. Notice of Proposed Rulemaking on the Assessment Base, Assessment Rate Adjustments and Assessment Rates

In a notice of proposed rulemaking adopted by the FDIC on November 9, 2010 (the Assessment Base NPR), the FDIC proposed to amend the definition of an institution's deposit insurance assessment base consistent with Dodd-Frank, modify the unsecured debt adjustment and the brokered deposit adjustment in light of the changes to the assessment base, add an adjustment for long-term debt held by an insured depository institution where the debt is issued by another insured depository institution, and eliminate the secured liability adjustment. The Assessment Base NPR also proposed revisions to the deposit insurance assessment rate schedules, including the rate schedules proposed in the October NPR, in light of the changes to the assessment base.

D. Update of Historical Analysis of Loss, Income and Reserve Ratios

The analysis set out in the October NPR sought to determine what assessment rates would have been needed to maintain a positive fund

[5] Public Law 111–203, sec. 332, 124 Stat. 1376, 1539 (to be codified at 12 U.S.C. 1817(e)(2)(B)).

[6] In setting the DRR for any year, the FDIC must consider the following factors:

(1) The risk of losses to the DIF in the current and future years, including historic experience and potential and estimated losses from insured depository institutions.

(2) Economic conditions generally affecting insured depository institutions so as to allow the DRR to increase during more favorable economic conditions and to decrease during less favorable economic conditions, notwithstanding the increased risks of loss that may exist during such less favorable conditions, as the Board determines to be appropriate.

(3) That sharp swings in assessment rates for insured depository institutions should be prevented.

(4) Other factors as the FDIC's Board may deem appropriate, consistent with the requirements of the Reform Act.

12 U.S.C. 1817(b)(3)(B).

[7] 75 FR 66262 (Oct. 27, 2010). Pursuant to the comprehensive plan, the FDIC also adopted a new Restoration Plan to ensure that the DIF reserve ratio reaches 1.35 percent by September 30, 2020, as required by Dodd-Frank. 75 FR 66293 (Oct. 27, 2010).

[8] The proceedings of the roundtable can be viewed in their entirety at: *http://www.vodium.com/MediapodLibrary/index.asp?library=pn100472_fdic_RoundTable.*

[9] The historical analysis contained in the October NPR is constructively included.

[10] Under section 7 of the FDI Act, the FDIC has authority to set assessments in such amounts as it determines to be necessary or appropriate. In setting assessments, the FDIC must consider certain enumerated factors, including the operating expenses of the DIF, the estimated case resolution expenses and income of the DIF, and the projected effects of assessments on the capital and earnings of insured depository institutions.

[11] 12 U.S.C. 1817(e)(2), as amended by sec. 332 of the Dodd-Frank Act.

balance during the last two crises. This analysis used an assessment base derived from domestic deposits to calculate the assessment income. Dodd-Frank, however, required the FDIC to change the assessment base to average consolidated total assets minus average tangible equity. The FDIC therefore has undertaken additional analysis to determine how the results of the original analysis would change had the new assessment base been in place from 1950 to 2010. Due to the larger assessment base resulting from Dodd-Frank, the constant nominal assessment rate required to maintain a positive fund balance from 1950 to 2010 is 5.29 basis points (compared with 8.47 basis points using a domestic-deposit-related assessment base). (*See* Chart 1.)

The assessment base resulting from Dodd-Frank, had it been applied to prior years, would have been larger than the domestic-deposit-related assessment base, and the rates of growth of the two assessment bases would have differed both over time and from each other. At any given time, therefore, applying a constant nominal rate of 8.47 basis points to the domestic-deposit-related assessment base would not necessarily yield exactly the same revenue as applying 5.29 basis points to the Dodd-Frank assessment base.

Despite these differences, the new analysis applying a 5.29 basis point assessment rate to the Dodd-Frank assessment base results in peak reserve ratios prior to the two crises similar to those seen when applying an 8.47 basis point assessment rate to a domestic-deposit-related assessment base.[12] (*See* Chart 2.) Both analyses show that the fund reserve ratio would have needed to be approximately 2 percent or more before the onset of the crises to maintain both a positive fund balance and stable assessment rates, assuming, in lieu of dividends, that the long-term industry average nominal assessment rate would be reduced by 25 percent when the reserve ratio reached 2 percent, and by 50 percent when the reserve ratio reached 2.5 percent.[13] Eliminating dividends and reducing rates successfully limits rate volatility whichever assessment base is used.

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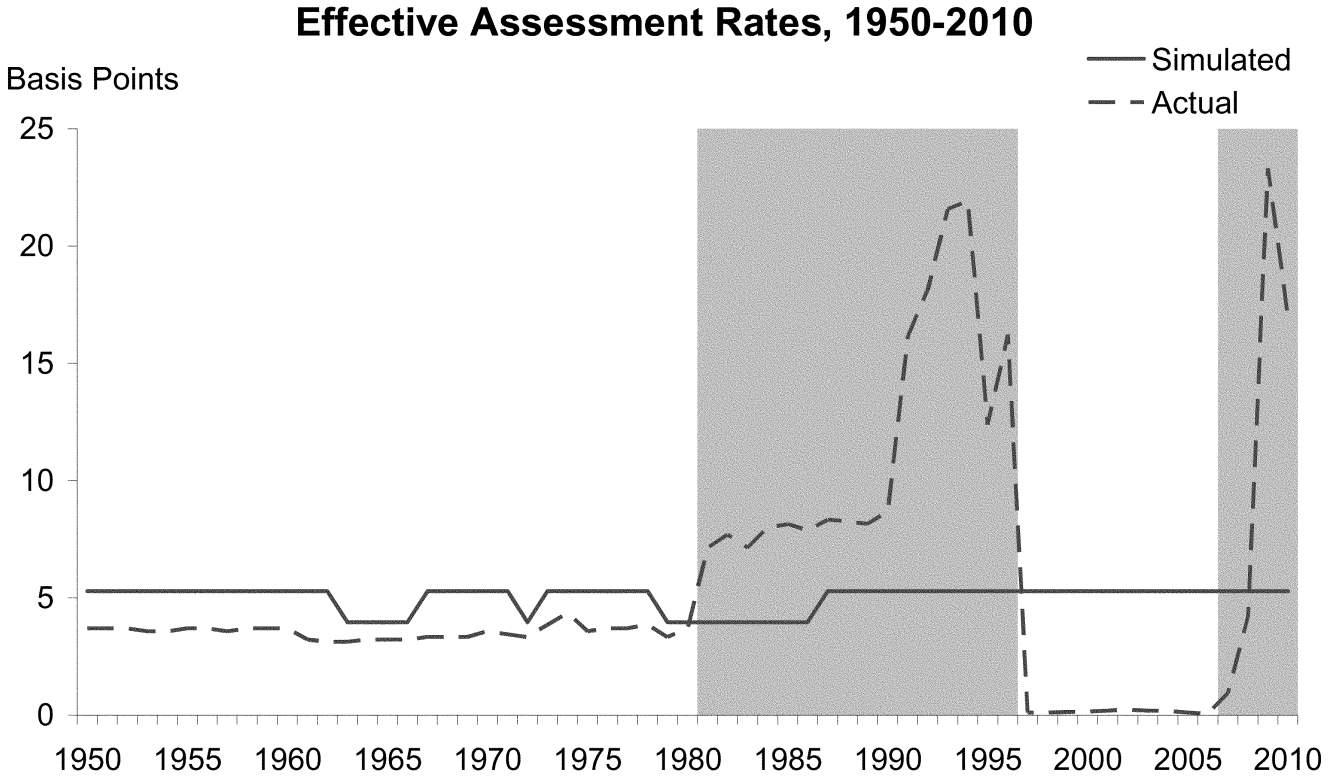
Chart 1



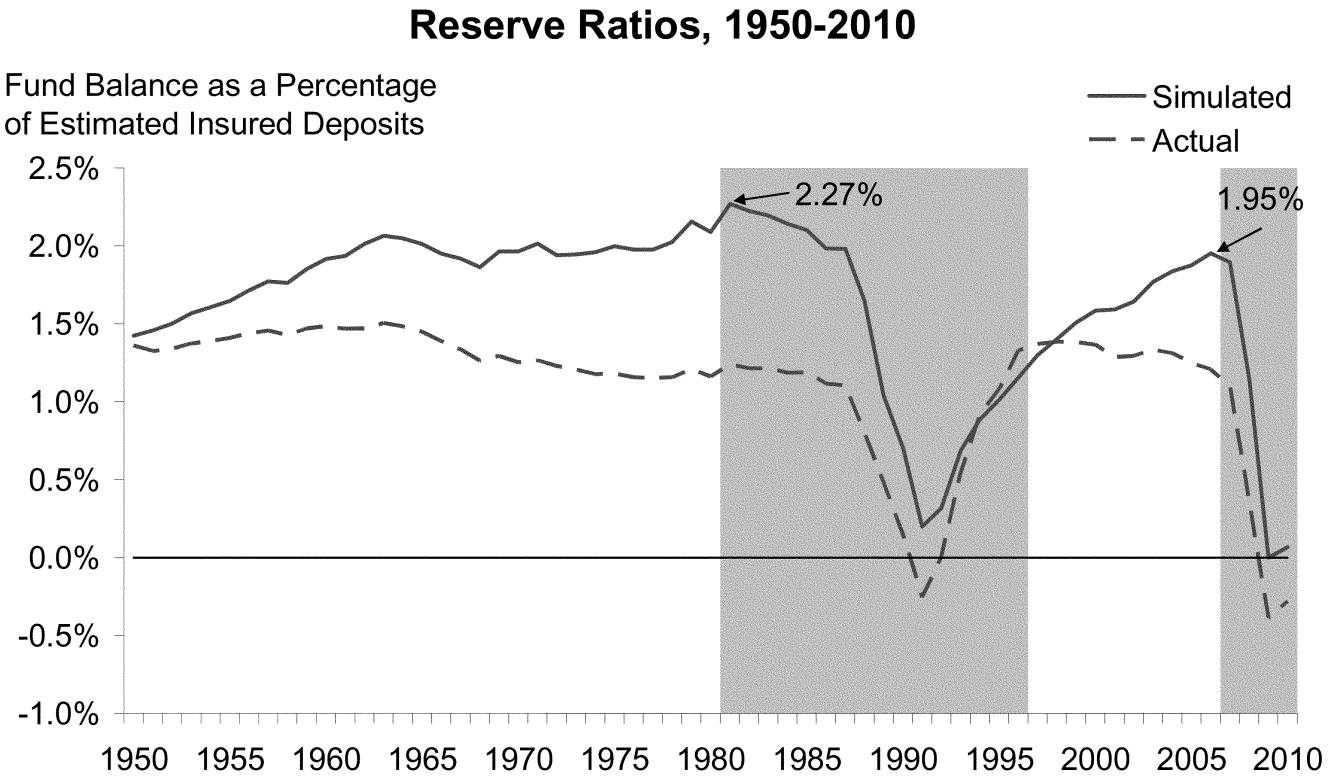
Source: FDIC, data through June 30, 2010.

Note: Effective assessment rate reduced by 25 percent when reserve ratio reaches 2 percent and 50 percent when reserve ratio reaches 2.5 percent, with 5.29 basis point average nominal assessment rate using new assessment base. Shaded areas denote periods of crisis and associated high assessment rates.

[12] Using the domestic-deposit-related assessment base, reserve ratios would have peaked at 2.31 percent and 2.01 percent before the two crises. (*See* Chart G in the October NPR.) Using the Dodd-Frank assessment base, reserve ratios would have peaked at 2.27 percent and 1.95 percent before the two crises.

[13] Dodd-Frank provides that the assessment base be changed to average consolidated total assets minus average tangible equity. *See* Public Law 111–203, sec. 331. For this simulation, from 1990 to 2010, the assessment base equals year-end total industry assets minus Tier 1 capital. For earlier years (before the Tier 1 capital measure existed) it equals year-end total industry assets minus total equity. Other than as noted, the methodology used in the additional analysis was the same as that used in the October NPR.

Chart 2



Source: FDIC, data through June 30, 2010.
Note: Effective assessment rate reduced by 25 percent when reserve ratio reaches 2 percent and 50 percent when reserve ratio reaches 2.5 percent, with 5.29 basis point average nominal assessment rate using new assessment base. Shaded areas denote periods of crisis and associated high assessment rates.

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II. Comments Received

The FDIC sought comments on every aspect of the proposed rule. The FDIC received 4 comments related to setting the DRR, which are discussed in section IV below.

III. The Final Rule

A. Scope

The FDIC is finalizing only the portion of the October NPR related to setting the DRR. The FDIC will consider including the remaining subject matter of the October NPR in a future final rule.

B. DRR

As discussed above, Dodd-Frank eliminates the previous requirement to set the DRR within a range of 1.15 percent to 1.50 percent, directs the FDIC to set the DRR at a minimum of 1.35 percent (or the comparable percentage of the assessment base as amended by Dodd-Frank) and eliminates the maximum limitation on the DRR.[14] Dodd-Frank retains the requirement that the FDIC designate and publish a DRR before the beginning of each calendar year.[15]

Also, as discussed above, Dodd-Frank retains the requirement that the FDIC set and publish a DRR annually.[16] The FDIC must set the DRR in accordance with its analysis of the following statutory factors: Risk of losses to the DIF; economic conditions generally affecting insured depository institutions; preventing sharp swings in assessment rates; and any other factors that the FDIC may determine to be appropriate and consistent with these factors.[17] The analysis that follows considers each statutory factor, including one "other factor": Maintaining the DIF at a level that can withstand substantial losses, consistent with the FDIC's comprehensive, long-term fund management plan.

Based upon the following analysis of the statutory factors that the FDIC must consider when setting the DRR, the historical analysis contained in the October NPR, and the updated analysis described above, the FDIC has concluded that the DRR should be set at 2 percent.[18] As the updated historical analysis above demonstrates, the recommended DRR is the minimum reserve ratio needed to withstand a future banking crisis. A 2 percent reserve ratio prior to past crises would

[14] Public Law 111–203, sec. 334(a), 124 Stat. 1376, 1539 (to be codified at 12 U.S.C. 1817(b)(3)(B)).

[15] 12 U.S.C. 1817(b)(3)(A).

[16] 12 U.S.C. 1817(b)(3).

[17] The statutory factors that the FDIC must consider are set out in a footnote above. The FDIC considered these factors when it approved the October NPR. While the analysis of the factors has been updated, the FDIC's conclusion remains the same.

[18] The 2 percent DRR is expressed as a percentage of estimated insured deposits. Dodd-Frank requires the FDIC to also make available the DRR using the new assessment base definition. The FDIC does not have all the information necessary to calculate the new assessment base; however, the FDIC estimates that as of September 30, 2010, a DRR of 2 percent of estimated insured deposits would have been approximately equivalent to a DRR of 0.9 percent of the new assessment base.

barely have prevented the fund from becoming negative while maintaining steady assessment rates. A larger fund would have allowed the FDIC to have maintained a positive balance and the fund would have remained positive even had losses been higher. Consequently, the FDIC views the 2 percent DRR as a long-range, *minimum* target.

Analysis of Statutory Factors

Risk of Losses to the DIF

During 2009 and 2010, losses to the DIF have been high. As of September 30, 2010, both the fund balance and the reserve ratio continue to be negative after reserving for probable losses from anticipated bank failures. During the current downturn, the fund balance has fallen below zero for the second time in the history of the FDIC.[19] The FDIC projects that, over the period 2010 through 2014, the fund could incur approximately $50 billion in failure-resolution costs. The FDIC projects that most of these costs will occur in 2010 and 2011.

In the FDIC's view, the high losses experienced by the DIF during the crisis of the 1980s and early 1990s and during the current economic crisis (and the potential for high risk of loss to the DIF over the course of future economic cycles) suggest that the FDIC should, as a long-range, minimum goal and in conjunction with the proposed dividend and assessment rate policy, set a DRR at a level that would have maintained a zero or greater fund balance during both crises so that the DIF will be better able to handle losses during periods of severe industry stress.

Economic Conditions Affecting FDIC-Insured Institutions

Concerns of a double-dip recession have receded and the U.S. economic recovery remains on track. Consensus forecasts call for the economy to expand by about 2.0 percent in the second half of 2010 and 2.5 percent in 2011. Consumer spending is growing gradually, but remains constrained by high unemployment and modest income growth. Business spending on equipment and software is rising, and corporate profits are near pre-recession levels.

The economic recovery is still exposed to downside risks—such as high unemployment and weak real estate markets—that create a challenging operating environment for insured depository institutions. The housing sector showed signs of stabilization after the expiration of Federal tax credits, but recent concerns over banks' foreclosure processes have introduced a new obstacle to the housing market recovery. Commercial real estate loan portfolios remain under pressure as unemployment dampens business and consumer demand. Even as credit markets have begun to recover amid low interest rates, bank lending activity remains constrained by weak loan demand and banks' reduced tolerance for risk. Industry-wide, loans outstanding fell slightly in the third quarter.

As of September 30, there were 860 insured depository institutions on the problem list, representing 11 percent of all insured depository institutions. Through November 26, 149 insured depository institutions have failed this year, exceeding the 140 failures that occurred in 2009; however, the total assets of failed institutions remain well below last year's total.

Consistent with the economic recovery, the financial performance of insured depository institutions has shown recent signs of improvement. The industry reported three straight profitable quarters in 2010. The industry's aggregate net income was $14.5 billion in third quarter 2010, up dramatically from just $2.0 billion a year ago. More than 80 percent of insured depository institutions were profitable in the quarter, and almost two-thirds reported year-over-year earnings growth. While insured depository institutions continue to experience significant credit distress, loan losses and delinquencies may have peaked.

Although these short-term economic conditions can inform the FDIC's decision on the DRR, they become less relevant in setting the DRR when, as now, the DIF is negative. In this context, the FDIC believes that the DRR should be viewed in a longer-term perspective. Twice within the past 30 years, serious economic dislocations have resulted in a significant deterioration in the condition of many insured depository institutions and in a consequent large number of insured depository institution failures at high costs to the DIF. In the FDIC's view, the DRR should, therefore, be viewed as a minimum goal needed to achieve a reserve ratio that can withstand these periodic economic downturns and their attendant insured depository institution failures. Taking these longer-term economic realities into account, a prudent and consistent policy would set the DRR at a minimum of 2 percent, since that is the lowest level that would have prevented a negative fund balance at any time since 1950.

Preventing Sharp Swings in Assessment Rates

Current law directs the FDIC to consider preventing sharp swings in assessment rates for insured depository institutions. Setting the DRR at 2 percent as a minimum goal rather than a final target would signal that the FDIC plans for the DIF to grow in good times so that funds are available to handle multiple bank failures in bad times. This plan would help prevent sharp fluctuations in deposit insurance premiums over the course of the business cycle. In particular, it would help reduce the risk of large rate increases during crises, when insured depository institutions can least afford an increase.

Maintaining the DIF at a Level That Can Withstand Substantial Losses

The FDIC has considered one additional factor when setting the DRR: Viewing the DRR as a minimum goal that will allow the fund to grow sufficiently large in good times that the likelihood of the DIF remaining positive during bad times increases, consistent with the FDIC's comprehensive, long-term fund management plan. Having adequate funds available when entering a financial crisis should reduce the likelihood that the FDIC would need to increase assessment rates, levy special assessments on the industry or borrow from the U.S. Treasury.

Balancing the Statutory Factors

In the FDIC's view, the best way to balance all of the statutory factors (including the "other factor" identified above of maintaining the DIF at a level that can withstand the substantial losses associated with a financial crisis) is to set the DRR at 2 percent.

IV. Summary of Comments

The FDIC requested comments on all aspects of the proposed rule. This section discusses comments related to setting the DRR, including the historical analysis of losses. Comments on other subjects of the October NPR will be considered in the context of formulating a final rule on those subjects.

One trade group specifically endorsed setting the DRR at 2 percent. It stated that it agreed with the FDIC's goal of seeking to maintain a positive fund balance during an economic downturn. The trade group further stated that the FDIC's proposal "would reduce the pro-cyclicality in the existing system and achieve moderate, steady assessment rates through economic and credit

[19] The FDIC first reported a negative fund balance in the early 1990s during the last banking crisis.

cycles while also maintaining a positive DIF balance during an economic downturn or even a banking crisis."

Three other trade groups, however, suggested that a DRR of 2 percent would be excessive. Two trade groups focused on recent changes in law, including the reforms contained in Dodd-Frank, which, they argued, lower the probability of an institution's failure and the FDIC's loss given failure.[20] The commenters argued that Dodd-Frank and Basel III make the likelihood of another crisis small and should allow the FDIC to weather another economic downturn with less funding. Therefore, the commenters argued, the potential exists for the FDIC to collect a large reserve that would grow without limit and remain in the DIF for an extended period of time. The commenters argued that these funds would best be used in the banking system where they could be lent to help fuel the economy.

The FDIC believes the proposed DRR complements Dodd-Frank and Basel III; all three make the financial sector more resilient, reduce the likelihood of future crises or their systemic damage should they occur, and make financial regulation more counter-cyclical. While the FDIC hopes that these reforms will make financial crises less likely and the FDIC's losses smaller, it would be imprudent for the FDIC to assume that banking crises are a thing of the past. The current crisis occurred despite extensive legislative changes to the banking and regulatory system that were made in response to the crisis of the late 1980s and early 1990s. The FDIC's analysis shows that the reserve ratio would need to be at least 2 percent to survive a crisis similar to the last two crises. Given the FDIC's goal of avoiding pro-cyclical assessments, the FDIC does not believe that this level of reserves is excessive.

Historically, the reserve ratio has never even reached 2 percent. Given the proposed rate reductions once the reserve ratio reaches 2 percent and 2.5 percent, combined with the near certainty that higher than average losses will occur at some time in the future, the FDIC has limited how much the fund can grow. This graduated approach to curbing fund growth is consistent with Congress's removal of the hard cap on the fund's size.

A fund reserve ratio in excess of 2 percent would not inappropriately curb credit availability. As described in the proposed rule, the FDIC estimates that the reserve ratio will not reach 2 percent for about 17 years; that estimate assumes a long period of economic expansion after the current recession ends. After a lengthy expansion, the greater risk to the banking industry and the economy is overextension of credit, not insufficient credit.

A trade group argued that the FDIC's historical analysis ignores the overreserving for contingent fund losses that occurred in 1990, which, had it not occurred, would have meant that the reserve ratio would not have needed to be 2.31 percent to maintain a positive fund. The trade group also noted that there may have been overreserving for contingent fund losses when the reserve ratio reached its low point earlier this year.

The historical analysis in the October NPR used reported contingent loss reserves, which were created in accordance with GAAP. That these reserves were not (and may not be) perfect predictors of loss merely reflects the uncertainty inherent in predicting the future. In other ways, the historical analysis in the October NPR used extremely conservative loss assumptions. The analysis excluded the great majority of losses from thrift failures during the crisis of the late 1980s and early 1990s. The analysis also excluded losses that would have occurred but for extraordinary government assistance during the recent crisis. Moreover, the analysis sought to determine the reserve ratio needed before a crisis to keep the fund from becoming negative. Public confidence in the strength of the fund increases when the fund has a significant positive balance (rather than simply not being negative).

A trade group also argued that the FDIC's analysis ignored the large amount of interest income that would be generated by a fund with a reserve ratio of 2 percent, and that this would be particularly significant during periods of stability and low losses to the fund. In fact, however, the FDIC's analysis did not ignore interest income. The analysis simulated fund growth by combining assessment income and investment income earned based on historical interest rates. The analysis covered periods of stability and low losses as well as crisis periods accompanied by high losses. It covered periods of high interest rates as well as low rates. The simulated fund also covered an extended period during which the fund reached or exceeded a reserve ratio of 2 percent. (*See* Chart 2 above.) This period was not accompanied by exponential fund growth, and fund growth was limited by the use of assessment rate reductions. Had such a high reserve ratio been uninterrupted for the entire 60-year period, the fund might gradually have reached a size not warranted by historical experience, but, historically, periods of stability are not the norm—rather they are interrupted by periods of high losses when the fund's growth decreases significantly.

Two trade groups were concerned that a large fund would become a target for funding activities unrelated to protecting insured deposits. This argument has been raised periodically over many years as a justification to keep assessments low and the fund size small. However, there is little evidence that this is a serious risk. The FDIC has consistently argued against legislative or other proposals that would expand the use of the fund beyond insured depositor protection.

Two trade groups also noted that the National Credit Union Share Insurance Fund (NCUSIF) reserve ratio is limited by statute to 1.5 percent and argued that a higher DIF reserve ratio could exacerbate competitive imbalances. The presence or absence of a cap on fund size is but one of several statutory differences between FDIC-insured institutions and Federally insured credit unions. The FDIC has proposed lower assessment rates that would go into effect when the reserve ratio reaches 1.15 percent. The FDIC believes that these assessment rates are sufficiently moderate that any competitive effect is likely to be small. Moreover, this difference is likely to be more than offset by the lower assessment rates that the FDIC should be able to maintain during a downturn. In 2010, for example, credit unions paid on average slightly less than 26 basis points of insured shares. Since almost all credit union deposits are insured, insured shares are analogous to domestic deposits as an assessment base.[21] In comparison, the FDIC estimates that, in 2010, banks and thrifts will have paid an average assessment rate of slightly less than 18 basis points on a domestic-deposit-related assessment base. Under the assessment rates that the FDIC proposed in the October NPR, banks and thrifts would pay much lower average assessment rates during a future crisis similar in magnitude to the current one. The proposed system is less pro-cyclical than both the existing system and the NCUSIF system, which is a positive

[20] One commenter suggested setting the DRR at 1.5 percent at most, and that the FDIC determine whether any additional increases beyond that point are necessary based on a contemporaneous evaluation of the facts and circumstances.

[21] The average rate in the text includes premiums paid to the National Credit Union Share Insurance Fund and assessments paid to the Temporary Corporate Credit Union Stabilization Fund.

feature when considered across a complete business cycle.

V. Regulatory Analysis and Procedure

A. Administrative Procedure Act

The final rule setting the DRR at 2 percent will become effective on January 1, 2011. The Administrative Procedure Act (APA) provides that: "The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except * * * (3) as otherwise provided for by the agency for good cause found and published with the rule."[22] The FDIC has determined that good cause exists for waiving the customary 30-day delayed effective date. The FDI Act requires that, "[b]efore the beginning of each calendar year, the Board of Directors shall designate the reserve ratio applicable with respect to the Deposit Insurance Fund and publish the reserve ratio so designated" and that "[a]ny change to the designated reserve ratio shall be made by the Board of Directors by regulation after notice and opportunity for comment."[23] The FDIC will have fulfilled its statutory obligations in setting a DRR upon publication of this final rule in the **Federal Register** or on the FDIC's Web site before January 1, 2011; accordingly, the inclusion of a particular effective date is incidental to this rulemaking. Nevertheless, in the interests of consistency and to avoid any uncertainty or confusion regarding the applicability of the new DRR, the FDIC is invoking the good cause exception so that the final rule setting the DRR at 2 percent will become effective on January 1, 2011.

Dodd-Frank, which became law on July 21, 2010, raised the minimum DRR from 1.15 percent to 1.35 percent, which required the FDIC to change the DRR. In determining the appropriate DRR, the FDIC has conducted the historical analyses described in this rulemaking and in the October NPR. The FDIC has also considered the increase in the DRR in the context of other comprehensive changes made by Dodd-Frank. Although the FDIC moved expeditiously to determine an appropriate DRR, began the rulemaking process as soon as possible, and provided for a comment period of 30 days (as opposed to a comment period of 45 or 60 days) when issuing the October NPR, insufficient time remained to adopt a final rule more than 30 days before January 1, 2011.

As stated above, the FDIC is required to designate and publish the DRR before the beginning of each calendar year; a regulatory effective date is incidental to such designation and publication. The DRR does not, by itself, either by statute or regulation, serve as a trigger in assessment rate determinations, recapitalization of the fund, or declaration of dividends. Further, the DRR imposes no obligations and provides no benefits, and consequently no entity is prejudiced, inconvenienced or benefitted by the January 1, 2011 effective date; rather, the FDIC is establishing the effective date as January 1, 2011 to avoid any possible uncertainty or confusion.

For the foregoing reasons, the FDIC finds that good cause exists to justify a January 1, 2011 effective date for the DRR final rule.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), each Federal agency must prepare a final regulatory flexibility analysis in connection with the promulgation of a final rule,[24] or certify that the final rule will not have a significant economic impact on a substantial number of small entities.[25] Certain types of rules, such as rules of particular applicability relating to rates or corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of "rule" for purposes of the RFA.[26] As of September 30, 2010, of the 7,770 insured commercial banks and savings associations, there were 4,229 small insured depository institutions as that term is defined for purposes of the RFA (*i.e.,* institutions with $175 million or less in assets).

Setting the DRR at 2 percent will not have a significant economic impact on a substantial number of small insured depository institutions. Nevertheless, the FDIC is voluntarily undertaking a regulatory flexibility analysis on the small business impact of the final rule.

The DRR has no legal effect on small business entities for purposes of the RFA. The DRR is a minimum target only, and although Dodd-Frank sets a minimum DRR of 1.35 percent of estimated insured deposits, the FDIC has the discretion to set the DRR above that level as it chooses. The DRR does not drive the needs of the Deposit Insurance Fund: the FDIC's total assessment needs are driven by statutory requirements and by the FDIC's aggregate insurance losses, expenses, investment income, and insured deposit growth, among other factors. Neither the FDI Act nor the amendments under Dodd-Frank establish a statutory role for the DRR as a trigger, whether for assessment rate determination, recapitalization of the fund, or dividends. Nor does setting the DRR at 2 percent alter the distribution of assessments among insured depository institutions. Accordingly, the final rule setting the DRR at 2 percent of estimated insured deposits has no significant economic impact on small entities for purposes of the RFA.

C. Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget has determined that the final rule is not a "major rule" within the meaning of the relevant sections of the Small Business Regulatory Enforcement Act of 1996 (SBREFA) Public Law 110–28 (1996). As required by law, the FDIC will file the appropriate reports with Congress and the Government Accountability Office so that the final rule may be reviewed.

D. Paperwork Reduction Act

No collections of information pursuant to the Paperwork Reduction Act (44 U.S.C. Ch. 3501 *et seq.*) are contained in the final rule.

E. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC invited comments on how to make this proposal easier to understand. No comments addressing this issue were received.

F. The Treasury and General Government Appropriation Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681).

List of Subjects in 12 CFR Part 327

Bank deposit insurance, Banks, Banking, Savings associations.

For the reasons set forth in the preamble, the FDIC proposes to amend chapter III of title 12 of the Code of Federal Regulations as follows:

[22] 5 U.S.C. 553(b)(3).

[23] 12 U.S.C. 1817(b)(3)(A).

[24] 5 U.S.C. 604.

[25] *See* 5 U.S.C. 605(b).

[26] *See* 5 U.S.C. 601.

PART 327—ASSESSMENTS

■ 1. The authority citation for part 327 is revised to read as follows:

Authority: 12 U.S.C. 1441, 1813, 1815, 1817–19, 1821.

■ 2. Revise § 327.4(g) to read as follows:

§ 327.4 Assessment rates.

* * * * *

(g) *Designated Reserve Ratio.* The designated reserve ratio for the Deposit Insurance Fund is 2 percent.

By order of the Board of Directors.

Dated at Washington, DC, this 14th day of December 2010.

Valerie J. Best,

Assistant Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 2010–31829 Filed 12–17–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0921; Airspace Docket No. 10–ASO–33]

Amendment and Revocation of Class E Airspace; Vero Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E surface airspace, and airspace extending upward from 700 feet above the surface, and removes Class E airspace designated as an extension to Class D surface area at Vero Beach Municipal Airport, Vero Beach, FL. The Vero Beach Non-Directional Beacon (NDB) has been decommissioned and new Standard Instrument Approach Procedures (SIAPs) have been developed for the airport. This action also updates the geographic coordinates of the St. Lucie County International Airport to aid in the navigation of our National Airspace System.

DATES: Effective 0901 UTC, March 10, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P. O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

History

On October 26, 2010, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend and remove Class E airspace at Vero Beach, FL (75 FR 65581) Docket No. FAA–2010–0921. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. During the comment period the FAA received a request from the National Aeronautical Navigation Services to update the geographic coordinates of the St. Lucie County International Airport, Fort Pierce, FL. This action makes the adjustment.

Class E airspace designated as surface areas, Class E airspace areas designated as an extension to a Class D surface area, and Class E airspace areas extending upward from 700 feet above the surface of the earth are published in paragraph 6002, 6004, and 6005, respectively, of FAA Order 7400.9U dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part amends Class E airspace designated as surface area to remove any reference to the decommissioned Vero Beach NDB at Vero Beach Municipal Airport, Vero Beach, FL. This action also adds additional controlled airspace extending upward from 700 feet above the surface to accommodate new Standard Instrument Approach Procedures (SIAPs) at the airport, and removes Class E airspace designated as an extension to Class D surface area for Vero Beach Municipal Airport. Also, this action will update the geographic coordinates of the St. Lucie County International Airport, Fort Pierce, FL.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Vero Beach Municipal Airport, Vero Beach, FL, and corrects geographic coordinates for St. Lucie County International Airport, Fort Pierce, FL.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, effective September 15, 2010, is amended as follows:

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

ASO FL E2 Vero Beach, FL [AMENDED]

Vero Beach Municipal Airport, FL
(Lat. 27°39′20″ N., long. 80°25′05″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.2 mile radius of the Vero Beach

Municipal Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously purblished in the Airport/Facility Directory.

* * * * *

Class E airspace areas designated as an extension to a class D surface area.

* * * * *

ASO FL E4 Vero Beach, FL [REMOVED]

* * * * *

Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO FL E5 Vero Beach, FL [AMENDED]

Vero Beach Municipal Airport, FL
(Lat. 27°39′20″ N. long. 80°25′05″ W.)
Vero Beach VORTAC
(Lat. 27°40′42″ N., long. 80°29′23″ W.)
St. Lucie County International Airport, FL
(Lat. 27°29′51″ N., long. 80°22′21″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Vero Beach Airport and within 4 miles north and 8 miles south of the Vero Beach VORTAC 296° radial, extending from the 6.7-mile radius to 16 miles northwest of the VORTAC and within a 7-mile radius of St. Lucie County International Airport.

Issued in College Park, Georgia, on December 10, 2010.

John R. Schroeter,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2010–31768 Filed 12–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0937; Airspace Docket No. 10–ASO–35]

Amendment of Class E Airspace; Henderson, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Henderson, KY. The Geneva Non-Directional Beacon (NDB) has been decommissioned and new Standard Instrument Approach Procedures (SIAPs) have been developed for Henderson City-County Airport. This action enhances the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, March 10, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

History

On October 21, 2010, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class E airspace 700 feet above the surface, at Henderson, KY (75 FR 64970) Docket No. FAA–2010–0937. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9U dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 amends Class E airspace extending upward from 700 feet above the surface to support new SIAPs developed at Henderson City-County Airport, Henderson, KY. Airspace reconfiguration is necessary due to the decommissioning of the Geneva NDB and cancellation of the NDB approach, and for continued safety and management of IFR operations at the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace at Henderson, KY.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, effective September 15, 2010, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO KY E5 Henderson, KY [AMENDED]

Henderson City-County Airport, KY
(Lat. 37°48′28″ N., long. 87°41′09″ W.)
Pocket City VORTAC, Evansville, IN
(Lat. 37°55′42″ N., long. 87°45′45″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Henderson City-County Airport and within 1.0 miles each side of the 153° radial from the Pocket City VORTAC extending from the 6.5-mile radius of the Henderson City-County Airport to 8.2 miles southeast of the VORTAC.

Issued in College Park, Georgia on December 10, 2010.

Barry A. Knight,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2010–31765 Filed 12–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2010–0692; Airspace Docket No. 10–AEA–16]

Establishment of Class E Airspace; Crewe, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E Airspace at Crewe, VA, to accommodate the additional airspace needed for the Standard Instrument Approach Procedures (SIAPs) developed for Crewe Municipal Airport. This action enhances the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective 0901 UTC, March 10, 2011. The Director of the **Federal Register** approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

History

On September 20, 2010, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish Class E airspace at Crewe, VA (75 FR 57215) Docket No. FAA–2010–0692. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9U dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes the Class E airspace extending upward from 700 feet above the surface at Crewe, VA, to provide controlled airspace required to support the SIAPs developed for Crewe Municipal Airport. This action is necessary for the safety and management of IFR operations at the airports.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace at Crewe, VA.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, effective September 15, 2010, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA VA E5 Crewe, VA [NEW]

Crewe Municipal Airport, VA
(Lat. 37°10′52″ N., long. 78°05′54″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Crewe Municipal Airport.

Issued in College Park, Georgia on December 10, 2010.

Barry A. Knight,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2010–31762 Filed 12–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 524

[Docket No. FDA–2010–N–0002]

New Animal Drugs; Mupirocin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Taro Pharmaceuticals U.S.A., Inc. The ANADA provides for veterinary prescription use of mupirocin ointment for the treatment of bacterial skin infections in dogs.

DATES: This rule is effective December 20, 2010.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary

Medicine (HFV–170), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8197, e-mail: *john.harshman@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Taro Pharmaceuticals U.S.A., Inc., 3 Skyline Dr., Hawthorne, NY 10532, filed ANADA 200–457 that provides for veterinary prescription use of Mupirocin Ointment USP, 2% for the treatment of bacterial skin infections in dogs. Taro Pharmaceuticals U.S.A., Inc.'s Mupirocin Ointment USP, 2% is approved as a generic copy of Pfizer, Inc.'s BACTODERM Ointment approved under NADA 140–839. The ANADA is approved as of November 29, 2010, and the regulations are amended in 21 CFR 524.1465 to reflect the approval.

In addition, Taro Pharmaceuticals U.S.A., Inc., has not been previously listed in the animal drug regulations as a sponsor of an approved application. Accordingly, the tables in 21 CFR 510.600(c) are being amended to add entries for this firm.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The Agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. In § 510.600, in the table in paragraph (c)(1) alphabetically add an entry for "Taro Pharmaceuticals U.S.A., Inc."; and in the table in paragraph (c)(2) numerically add an entry for "051672" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Taro Pharmaceuticals U.S.A., Inc., 3 Skyline Dr., Hawthorne, NY 10532	051672
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
051672	Taro Pharmaceuticals U.S.A., Inc., 3 Skyline Dr., Hawthorne, NY 10532.
* * * * *	

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 524.1465 [Amended]

■ 4. In paragraph (b) of § 524.1465, remove "Nos. 000069 and 025463" and in its place add "Nos. 000069, 025463, and 051672".

Dated: December 10, 2010.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2010–31870 Filed 12–17–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–331F]

Schedules of Controlled Substances: Placement of 5-Methoxy-N,N-Dimethyltryptamine into Schedule I of the Controlled Substances Act

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Final rule.

SUMMARY: With the issuance of this final rule, the Deputy Administrator of the Drug Enforcement Administration (DEA) places the substance 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT), including its salts, isomers and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible, into schedule I of the Controlled Substances Act (CSA). This action by the DEA Deputy Administrator is based on a scheduling recommendation from the Assistant Secretary for Health of the Department of Health and Human Services (DHHS) and a DEA review indicating that 5-MeO-DMT meets the criteria for placement in schedule I of the CSA. This final rule will impose the criminal sanctions and regulatory controls of schedule I substances under the CSA on the manufacture, distribution, dispensing, importation, exportation, and possession of 5-MeO-DMT.

DATES: *Effective Date:* January 19, 2011.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, PhD, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION:

Background

In accordance with 21 U.S.C. 811(b) of the CSA, DEA gathered and reviewed the available information regarding the pharmacology, chemistry, trafficking, actual abuse, pattern of abuse, and the relative potential for abuse of 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT). On February 21, 2007, the Deputy Administrator of the DEA submitted these data to the Assistant Secretary for Health, Department of Health and Human Services. In accordance with 21 U.S.C. 811(b), the Deputy Administrator also requested a scientific and medical evaluation and a scheduling recommendation for 5-MeO-

DMT from the Assistant Secretary for Health.

5-MeO-DMT is related to the schedule I hallucinogens N,N-dimethyltryptamine (DMT), 2,5-dimethoxy-4-methylamphetamine (DOM), lysergic acid diethylamide (LSD) and mescaline in its pharmacological properties and hallucinogenic effects. In animal drug discrimination studies, DOM, LSD, mescaline, DMT, and alpha-methyltryptamine (AMT) fully substitute for the discriminative stimulus cue of 5-MeO-DMT. In *in vitro* receptor binding studies, 5-MeO-DMT, similar to DMT and other schedule I hallucinogens, binds to central serotonin 2 ($5\text{-}HT_2$) receptors. Anecdotal reports from humans who have used 5-MeO-DMT describe hallucinogenic effects similar to those produced by DMT. 5-MeO-DMT, however, is reported to be 4 to 5-fold more potent than DMT when administered by inhalation, sublingual or oral (if encapsulated) routes of administration.

Evidence of 5-MeO-DMT trafficking was first reported in 1999 by Federal law enforcement officials. Though 5-MeO-DMT is likely to be underreported because it is not a controlled substance, from January 1999 to December 2009, law enforcement officials encountered 23 cases involving 35 drug exhibits pertaining to the trafficking, distribution and abuse of 5-MeO-DMT, according to the System to Retrieve Information from Drug Evidence (STRIDE), a Federal database of drug exhibits analyzed by DEA laboratories. The drug exhibits analyzed by DEA laboratories comprised 89 grams of powder and 10 milliliters of liquid containing 5-MeO-DMT. From January 2004 to December 2009, the National Forensic Laboratory Information System (NFLIS), a database of drug analyses conducted by State and local forensic laboratories, reported 27 State and local drug cases involving 32 drug exhibits identified as 5-MeO-DMT.

The risks to the public health associated with the abuse of 5-MeO-DMT are similar to the risks associated with those of schedule I hallucinogens. There have been reports of emergency room admissions and a death associated with the abuse of 5-MeO-DMT. 5-MeO-DMT has never been approved by the Food and Drug Administration (FDA) for marketing as a human drug product in the United States and there are no recognized therapeutic uses of 5-MeO-DMT in the United States.

Notice of Proposed Rulemaking

On December 18, 2008, the Principal Deputy Assistant Secretary for Health, Department of Health and Human Services (DHHS), sent the Deputy Administrator of the DEA a scientific and medical evaluation and a letter recommending that 5-MeO-DMT and its salts be placed into schedule I of the CSA. Enclosed with the letter was a document prepared by FDA entitled, "Basis for the Recommendation To Control 5-Methoxy-Dimethyltryptamine (5-MeO-DMT) in Schedule I of the Controlled Substances Act." The document contained a review of the factors which the CSA requires the Secretary to consider (21 U.S.C. 811(b)).

After a review of the available data, including the scientific and medical evaluation and the scheduling recommendation from DHHS, the Deputy Administrator of the DEA published a Notice of Proposed Rulemaking entitled "Schedules of Controlled Substances: Placement of 5-Methoxy-Dimethyltryptamine into Schedule I of the Controlled Substances Act" on August 21, 2009 (74 FR 42217), which proposed placement of 5-MeO-DMT in schedule I of the CSA. The proposed rule provided an opportunity for all interested persons to submit their written comments on or before September 21, 2009.

After the comment period closed on September 21, 2009, DEA discovered that the supporting documents referenced in the proposed rule were not posted to the electronic docket, thus not available for review. DEA reopened the public comment period (October 28, 2009, Notice of Proposed Rulemaking) (74FR55502) for an additional 30 days to ensure all interested members of the public had an opportunity to review all the materials and provide comments. Comments submitted on or before November 27, 2009, were considered.

Comments Received

The DEA received 22 comments in response to the August 21, 2009, and October 28, 2009, Notices of Proposed Rulemaking. Five comments were received in response to the first Notice of Proposed Rulemaking. An additional 17 comments were received during the 30-day reopening of the comment period. One of the comments submitted contained only supporting materials for another comment that was submitted. All commenters were concerned citizens, none of whom identified themselves as representing organizations.

Support for the rule as proposed: One commenter supported the proposal to schedule 5-MeO-DMT in schedule I. DEA appreciates the support of this commenter for this final rule.

Twenty of the comments were in opposition to the proposed scheduling of 5-MeO-DMT in schedule I of the CSA. Various reasons for the disapproval of the scheduling of 5-MeO-DMT were provided. Most comments can be grouped into the following general categories: (1) Those concerned that the comment or request for hearing period was inadequate and requesting an extension of the comment or request for hearing period, (2) those concerned that 5-MeO-DMT is a naturally occurring substance and thus should not be controlled, (3) those that questioned the pharmacological and abuse potential findings considered by DEA and DHHS for the purpose of scheduling 5-MeO-DMT, (4) those concerned that the proposed scheduling would limit access to 5-MeO-DMT for research, and (5) those that alleged violations of the Establishment Clause and/or the Free Exercise Clause of the First Amendment or raised other legal challenges.

Length of comment or request for hearing period: Several commenters felt that the length of the comment or request for hearing period was too short and requested that the comment or request for hearing period be extended, to as much as 24 months. Some commenters noted the need to research pharmacological, religious or other evidence regarding 5-MeO-DMT and prepare comments and stated there was not enough time before the comment period closed to obtain or prepare this information.

In response to these comments, DEA does not believe that a further extension or reopening of the comment or request for hearing period is necessary or warranted. Pharmacological and abuse data on 5-MeO-DMT are publicly available and easily retrievable. The period for comments and requests for hearings with regard to the Notices of Proposed Rulemaking was thirty (30) days from the date of publication of each Notice of Proposed Rulemaking. Interested persons who wished to submit written data, views or arguments have had ample opportunity to use the information in the medical and scientific literature, which are available to the public from various resources (*e.g.,* U.S. National Library of Medicine, public libraries, and Web sites of scientific journals), along with the supplemental information provided by DEA (*i.e.,* DEA's scheduling review document and FDA's scientific and medical evaluation and scheduling recommendation) as well as other sources of information such as publications by Federal agencies (*e.g.,* reports from DEA's NFLIS, National Institute on Drug Abuse's (NIDA) National Survey on Drug Use and Health, Substance Abuse and Mental

Health Services Administration's Drug Abuse Warning Network, and NIDA's Monitoring the Future) to submit meaningful comments on 5-MeO-DMT that can be supported by data or scientific arguments. These data are publicly available and easily retrievable. DEA has considered the amount of time needed to obtain and review documents and supporting materials relevant to the commenter's position, prepare the comment, and submit the comment and finds that a 30-day comment period provides a meaningful opportunity for interested persons to submit comments or request a hearing. While commenters indicated that an extension of the comment period would allow time for further research regarding 5-MeO-DMT, DEA notes that this scheduling action does not prevent such research from occurring. Any person wishing to conduct research using 5-MeO-DMT may do so provided that the person has obtained a schedule I researcher registration with DEA, has the appropriate research protocols in place with FDA, and meets all other requirements.

Use of *http://www.regulations.gov:* Several commenters discussed the use of *http://www.regulations.gov,* the government's online Federal Docket Management System (FDMS). Commenters stated that the document reopening the comment period was posted to the electronic docket on *http://www.regulations.gov* on October 28, 2009, but that certain supporting materials were not posted until November 3, 2009. In a related comment, a commenter objected to the "splitting" of the electronic docket for the reopening of the comment period from the electronic docket for the Notice of Proposed Rulemaking. The commenter indicated that "splitting" the dockets made it difficult to view all docket components and made it "extremely difficult to communicate to others where and how to locate, view, or comment on Docket No. DEA–331."

DEA disagrees with these comments. The supporting documents were posted to the electronic docket (Docket ID DEA 2009–0008) on September 30, 2009, and October 2, 2009. DEA acknowledges that the electronic docket for the Notice of Proposed Rulemaking was separate from the electronic docket for the reopening of the comment period. This electronic method of posting, however, merely supplemented the notice provisions required by the Administrative Procedure Act (5 U.S.C. 553). Both the Notice of Proposed Rulemaking and the extension of the comment period were published in the **Federal Register** (74 FR 42217, August 21, 2009, and 74 FR 55502, October 28, 2009, respectively), in accordance with administrative law requirements. Although not required to do so, DEA posted a Statement for the Record in the Federal Docket Management System (FDMS) Docket ID DEA–2009–0008 (the August 21, 2009, Notice of Proposed Rulemaking) to alert the public that the Notice of Proposed Rulemaking to reopen the comment period was located in FDMS Docket ID DEA–2009–0013.

5-MeO-DMT is a naturally occurring substance: Some commenters objected to the proposed scheduling of 5-MeO-DMT because 5-MeO-DMT is a naturally occurring substance. DEA has considered these comments and acknowledges the biological presence of 5-MeO-DMT in humans and in certain toads and plant species. However, DEA disagrees with the contention that the fact that 5-MeO-DMT is a naturally occurring substance prevents it from being controlled. DHHS and DEA have considered the eight factors determinative of control set out in 21 U.S.C. 811(c), and DEA has considered the recommendations of DHHS in making the findings under 21 U.S.C. 812 that warrant placement in schedule I of the CSA.

Insufficient data: Several commenters believed that insufficient data exist to support the placement of 5-MeO-DMT into schedule I. For example, a few commenters argued that 5-MeO-DMT does not have toxic effects or lead to addiction or harmful behavior. In addition, a commenter incorrectly stated that there were no reported deaths associated with the use of 5-MeO-DMT. Other commenters suggested that the scheduling of 5-MeO-DMT be postponed until more research could be done.

DEA does not agree with these statements. The studies used to assess abuse potential of 5-MeO-DMT are widely held as the standard methods of evaluation. Behavioral effects of 5-MeO-DMT in animals and humans were found to be similar to those of the schedule I hallucinogens. Preclinical studies indicated that 5-MeO-DMT has pharmacological effects at serotonin receptors. In humans, 5-MeO-DMT produced subjective responses similar to DMT and other schedule I hallucinogens. In addition, DEA finds that the abuse of 5-MeO-DMT presents a safety hazard to the health of individuals. There are reports of emergency room admissions and a death associated with the abuse of 5-MeO-DMT. After careful consideration of preclinical and clinical studies and in accordance with 21 U.S.C. 811(a) and (b) and considering the factors enumerated in 21 U.S.C. 811(c), the Deputy Administrator of the DEA finds that 5-MeO-DMT has high abuse potential supporting placement in schedule I under the CSA.

Control of DMT: One commenter questioned the evidence considered by DEA to make the findings to control "DMT." DEA finds that this comment is not relevant to the present scheduling action as this Final Rule pertains to the scheduling of 5-MeO-DMT. However, if the commenter intended to refer to 5-MeO-DMT and not DMT, the reasons for controlling 5-MeO-DMT have already been provided.

Prohibition or restriction of use in research: Commenters expressed concern that the proposed scheduling of 5-MeO-DMT will prohibit or significantly restrict the use of 5-MeO-DMT in research. The DEA does not agree. As noted previously, persons interested in using 5-MeO-DMT for research purposes can still use this substance provided that they have a DEA schedule I researcher registration and meet all other statutory and regulatory criteria. This registration can be obtained by submitting an application for schedule I registration in accordance with 21 CFR 1301.18.

Constitutional concerns: Several commenters raised concerns that the proposed rule would substantially impair religious liberty. The commenters raised two specific concerns with respect to religion. First, the commenters questioned the proposed rule on the ground that the CSA, which authorizes this rulemaking, violates both the Free Exercise Clause and the Establishment Clause of the First Amendment. DEA has fully considered these concerns, and does not believe any change in the rule is necessary. With respect to the Free Exercise Clause, one commenter claimed that the CSA is not a neutral law of general applicability under *Employment Division* v. *Smith,* 494 U.S. 872 (1990), because the CSA includes exemptions for the use of alcohol, certain research and medical uses of certain substances, and the sacramental use of peyote by the Native American Church. This concern has been raised previously in litigation, and courts have concluded that the CSA does not interfere with the free exercise of religion in violation of the First Amendment. *See Olsen* v. *Mukasey,* 541 F.3d 827 (8th Cir. 2008); *O Centro Espirita Beneficiente Uniao do Vegetal* v. *Mukasey,* No. 00–1647 (D. N. M. June 16, 2008). The commenter raised similar concerns about the CSA with respect to the Establishment Clause of the First Amendment. Once again, courts have

upheld the validity of the CSA in the face of related challenges and concluded that the statute does not represent an establishment of religion in contravention of the First Amendment. *Peyote Way Church of God* v. *Thornburgh,* 922 F.2d 1210 (5th Cir. 1991); *United States* v. *Valazquez,* 2009 WL 2823730 (W.D. Okla. Aug. 31, 2009).

Another commenter suggested that if the final rule scheduling 5-MeO-DMT is issued without change, DEA should consider "providing special exemption for religious use." The commenter did not provide any specific details about the kind of exemption that he believed would be appropriate. Accordingly, DEA lacks the information necessary to evaluate this comment.

Finally, one commenter questioned DEA's finding that the proposed rule does not have federalism implications warranting the application of Executive Order 13132. DEA has considered this concern and concurs with the conclusion that the placement of 5-MeO-DMT and its salts into schedule I of the CSA does not preempt or modify any provision of State law; nor does it impose enforcement responsibilities on any State; nor does it diminish the power of any State to enforce its own laws.

Scheduling of 5-MeO-DMT

Based on the recommendation of the Assistant Secretary for Health, received in accordance with section 201(b) of the Act (21 U.S.C. 811(b)), the independent review of the available data by DEA, and after a review of the comments received in response to the Notice of Proposed Rulemaking and the notice reopening the comment period, the Deputy Administrator, pursuant to sections 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), finds that:

(1) 5-MeO-DMT has a high potential for abuse.

(2) 5-MeO-DMT has no currently accepted medical use in treatment in the United States.

(3) There is a lack of accepted safety for use of 5-MeO-DMT under medical supervision.

Based on these findings, the Deputy Administrator of the DEA concludes that 5-MeO-DMT and its salts warrant control in schedule I of the CSA (21 U.S.C. 812 (b)(1)).

Regulatory Requirements

As noted below, 5-MeO-DMT will be subject to regulatory controls and administrative, civil and criminal sanctions applicable to the manufacture, distribution, dispensing, importation and exportation of a schedule I controlled substance, including the following:

Registration. Any person who manufactures, distributes, dispenses, imports or exports 5-MeO-DMT or who engages in research or conducts instructional activities with respect to 5-MeO-DMT, or who proposes to engage in such activities, must submit an application for schedule I registration in accordance with part 1301 of Title 21 of the Code of Federal Regulations. Any person who is currently engaged in any of the above activities and is not registered with DEA must submit an application for registration on or before January 19, 2011 and may continue their activities until DEA has approved or denied that application.

Security. 5-MeO-DMT is subject to schedule I security requirements and must be manufactured, distributed and stored in accordance with §§ 1301.71; 1301.72(a), (c), and (d); 1301.73; 1301.74; 1301.75(a) and (c); and 1301.76 of Title 21 of the Code of Federal Regulations on or after January 19, 2011.

Labeling and Packaging. All labels and labeling for commercial containers of 5-MeO-DMT which are distributed on or after January 19, 2011 must comply with the requirements of §§ 1302.03 through 1302.07 of Title 21 of the Code of Federal Regulations on or after January 19, 2011.

Quotas. Quotas for 5-MeO-DMT must be established pursuant to the requirements of part 1303 of Title 21 of the Code of Federal Regulations.

Inventory. Every registrant required to keep records and who possesses any quantity of 5-MeO-DMT must keep an inventory of all stocks of 5-MeO-DMT on hand pursuant to §§ 1304.03, 1304.04 and 1304.11 of Title 21 of the Code of Federal Regulations on or after January 19, 2011. Every registrant who desires registration in schedule I to handle 5-MeO-DMT must conduct an inventory of all stocks of the substance.

Records. All registrants who handle 5-MeO-DMT must keep records pursuant to §§ 1304.03, 1304.04, 1304.21, 1304.22, and 1304.23 of Title 21 of the Code of Federal Regulations on or after January 19, 2011.

Reports. All registrants required to submit reports in accordance with § 1304.33 of Title 21 of the Code of Federal Regulations must do so regarding 5-MeO-DMT on and after January 19, 2011.

Order Forms. All registrants involved in the distribution of 5-MeO-DMT must comply with the order form requirements of part 1305 of Title 21 of the Code of Federal Regulations on and after January 19, 2011.

Importation and Exportation. All importation and exportation of 5-MeO-DMT must be in compliance with part 1312 of Title 21 of the Code of Federal Regulations on or after January 19, 2011.

Criminal Liability. Any activity with 5-MeO-DMT not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act shall be unlawful on or after January 19, 2011.

Regulatory Certifications

Executive Order 12866

In accordance with the provisions of the CSA (21 U.S.C. 811(a)), this action is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order 12866, section 3(d)(1).

Regulatory Flexibility Act

The Deputy Administrator, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), has reviewed this final rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. This action involves the control of a substance with no currently accepted medical use in treatment in the United States. This final rule will place 5-MeO-DMT into schedule I of the Controlled Substances Act.

Executive Order 12988

This regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Executive Order 13132

This rulemaking does not preempt or modify any provision of State law; nor does it impose enforcement responsibilities on any State; nor does it diminish the power of any State to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector, of $126,400,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices: or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and export markets.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of DEA by Department of Justice regulations (28 CFR 0.100), and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

■ 2. Section 1308.11 is amended by:

■ A. Redesignating existing paragraphs (d)(15) through (d)(34) as paragraphs (d)(16) through (d)(35); and

■ B. Adding a new paragraph (d)(15).

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(15) 5-methoxy-N,N-dimethyltryptamine 7431. Some trade or other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT

* * * * *

Dated: December 13, 2010.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 2010–31854 Filed 12–17–10; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2009–0041–201058; FRL–9241–1]

Approval and Promulgation of Implementation Plans; Mississippi; Prevention of Significant Deterioration Rules: Nitrogen Oxides as a Precursor to Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a portion of a revision to the Mississippi State Implementation Plan (SIP), submitted by the Mississippi Department of Environmental Quality (MDEQ), to EPA on November 28, 2007. The revision amends Mississippi's prevention of significant deterioration (PSD) permitting regulations in the SIP to address permit requirements promulgated in the 1997 8-Hour Ozone National Ambient Air Quality Standards (NAAQS) Implementation Rule-Phase II (hereafter referred to as the "Ozone Implementation New Source Review (NSR) Update"). The Ozone Implementation NSR Update revised permit requirements relating to the implementation of the 1997 8-hour ozone NAAQS specifically incorporating nitrogen oxides (NO_X) as a precursor to ozone. EPA's approval of Mississippi's provisions to include NO_X as an ozone precursor into the Mississippi SIP is based on EPA's determination that Mississippi's SIP revision related to these provisions complies with Federal requirements.

DATES: *Effective Date:* This rule will be effective January 19, 2011.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2009–0041. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Mississippi SIP, contact Ms. Twunjala Bradley, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Telephone number: (404) 562–9352; e-mail address: *bradley.twunjala@epa.gov.* For information regarding NSR/PSD, contact Ms. Yolanda Adams, Air Permits Section, at the same address above. Telephone number: (404) 562–9214; e-mail address: *adams.yolanda@epa.gov.* For information regarding 8-hour ozone NAAQS, contact Ms. Jane Spann, Regulatory Development Section, at the same address above. Telephone number: (404) 562–9029; e-mail address: *spann.jane@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

On July 18, 1997, EPA promulgated a revised 8-hour ozone NAAQS of 0.08 parts per million—also referred to as the 1997 8-hour ozone NAAQS. On April 30, 2004, EPA designated areas as attainment, nonattainment and unclassifiable for the 1997 8-hour ozone NAAQS. As part of the 2004 designations, EPA also promulgated an implementation rule for the 1997 8-hour ozone NAAQS in two phases. Phase I of EPA's 1997 8-hour ozone implementation rule (Phase 1 Rule), published on April 30, 2004, and effective on June 15, 2004, provided the implementation requirements for designating areas under subpart 1 and subpart 2 of the CAA. 69 FR 23857.

On November 29, 2005, EPA promulgated the second phase for implementation provisions related to the 1997 8-hour ozone NAAQS which finalized regulations to implement the 8-hour NAAQS for PSD permitting purposes—also known as the Phase II Rule. 70 FR 71612. The Phase II Rule addressed control and planning requirements as they applied to areas

designated nonattainment for the 1997 8-hour ozone NAAQS which included NSR requirements. Specific to this rulemaking, the Phase II Rule made changes to Federal regulations 40 CFR 51.165, 51.166, and 52.21, which govern the nonattainment (NNSR) and PSD permitting programs. The revisions to the NSR permitting requirements in the Phase II Rule are also known as the Ozone Implementation NSR Update.

Specifically, the Phase II Rule requirements included, among other changes, a new provision stating that NO_X is an ozone precursor. 70 FR 71612 at 71679 (November 29, 2005). In the Phase II Rule, EPA stated as follows:

"The EPA has recognized NO_X as an ozone precursor in several national rules because of its contribution to ozone transport and the ozone nonattainment problem. The EPA's recognition of NO_X as an ozone precursor is supported by scientific studies, which have long recognized the role of NO_X in ozone formation and transport. Such formation and transport is not limited to nonattainment areas. Therefore, we believe NO_X should be treated consistently as an ozone precursor in both our PSD and nonattainment NSR regulations. For these reasons we have promulgated final regulations providing that NO_X is an ozone precursor * * *"

In the Phase II Rule, EPA established that States must submit SIPs incorporating required changes (including the addition of NO_X as a precursor for ozone) no later than June 15, 2007. *See* 70 FR 71612 at 71683.

On November 28, 2007, the State of Mississippi, through MDEQ, submitted a SIP revision to EPA for approval, which revised the PSD permitting regulations in order to comply with the Phase II Rule. This revision incorporates by reference EPA's Federal regulations specified in the Ozone Implementation NSR Update relating to NO_X as an ozone precursor. Specifically, the SIP revision amends Mississippi's Air Quality Regulations, Air Pollution Control, Section 5 (APC–S–5)—"Regulations for the Prevention of Significant Deterioration of Air Quality." Mississippi's November 28, 2007, SIP submittal revises the PSD regulations at APC–S–5 by updating their IBR date of Federal regulations promulgated in 40 CFR 52.21. This final action addresses only one portion of the November 28, 2007, submittal—the Ozone Implementation NSR Update requirements, as contained in 40 Code of Federal Regulations (CFR) 52.21 and promulgated on November 29, 2005, as part of EPA's Ozone Implementation NSR Update.

Also included in Mississippi's November 28, 2007, SIP revision were two provisions for which EPA is not taking action at this time. The first provision is regarding Mississippi's incorporation by reference of provisions promulgated by EPA on May 1, 2007, which excludes from the NSR major source permitting requirements "chemical process plants" that produce ethanol through a natural fermentation process. EPA may consider further action for the aforementioned provision in a future rulemaking. The second is Mississippi's compliance with Section 110(a)(2)(D)(i) of the CAA regarding interstate air pollution transport for the 1997 8-hour ozone and fine particulate matter NAAQS as it pertains to the prevention of significant deterioration of air quality and visibility. EPA is also not addressing Mississippi's submission regarding interstate transport in today's action.

II. Today's Action

Mississippi's November 28, 2007, SIP revision to APC–S–5 incorporates by reference the provisions at 40 CFR 52.21 as amended and promulgated as of June 15, 2007, and updates Mississippi's existing incorporation by reference of the Federal NSR program to include the NO_X as an ozone precursor Federal provisions set forth in the Phase II Rule. EPA has determined that Mississippi's SIP revision, which became State-effective on September 24, 2007, meets the requirements of the Phase II Rule and is consistent with section 110 of the CAA.

On October 7, 2010, EPA published a rulemaking proposing to approve the aforementioned revision into the Mississippi SIP. 75 FR 62024. The comment period closed on November 13, 2010, and no comments, adverse or otherwise, were received. Details regarding the November 28, 2007, SIP revision are discussed in the proposed rulemaking and describe the basis on which EPA is now taking final action on the Mississippi SIP revision.

III. Final Action

Pursuant to Section 110 of the CAA, EPA is taking final action to approve Mississippi's November 28, 2007, SIP revision, which incorporates NO_X as an ozone precursor for PSD purposes into the Mississippi SIP. The revision included in Mississippi's PSD permitting program is equivalent to the provision in the Ozone Implementation NSR Update. EPA is approving these revisions into the Mississippi SIP because they are consistent with Section 110 CAA and its implementing regulations.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 18, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, and Volatile organic compounds.

Dated: December 8, 2010.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart Z—Mississippi

■ 2. Section 52.1270 (c) is amended by revising the entry for "APC–S–5" to read as follows:

§ 52.1270 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSISSIPPI REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	* * *
APC–S–5—Regulations for the Prevention of Significant Deterioration of Air Quality				
All	.....	9/24/2007	12/20/10 [Insert citation of publication].	APC–S–5 incorporates by reference the regulations found at 40 CFR 52.21 as of June 15, 2007; This EPA action is approving the incorporation by reference with the exception of the phrase "except ethanol production facilities producing ethanol by natural fermentation under the North American Industry Classification System (NAICS) codes 325193 or 312140," APC–S–5 incorporated by reference from 40 CFR 52.21(b)(1)(i)(a) and (b)(1(iii)(t). APC–S–5.

* * * * *

[FR Doc. 2010–31893 Filed 12–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R06–OAR–2010–0412; FRL–9240–8]

Determination of Nonattainment and Reclassification of the Dallas/Fort Worth 1997 8-Hour Ozone Nonattainment Area; Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing its determination that the Dallas/Fort Worth (DFW) moderate 8-hour ozone nonattainment area failed to attain the 1997 8-hour ozone national ambient air quality standard (NAAQS or standard) by June 15, 2010, the attainment deadline set forth in the Clean Air Act (CAA or Act) and Code of Federal Regulations (CFR) for moderate nonattainment areas. This final determination is based on EPA's review of complete, quality assured and certified ambient air quality monitoring data for the 2007–2009 monitoring period that are available in the EPA Air Quality System (AQS) database. As a result of this final action, the DFW area will be reclassified by operation of law as a serious ozone nonattainment area for the 1997 8-hour ozone standard on the effective date of this rulemaking. The new attainment date for the DFW area is as expeditiously as practicable, but not later than June 15, 2013. The State of Texas must submit State Implementation Plan (SIP) revisions addressing requirements for "serious" areas no later than one year after the effective date of this rulemaking.

DATES: This rule is effective on January 19, 2011.

ADDRESSES: EPA established a docket for this action under Docket ID No. EPA–R06–OAR–2010–0412. All documents in the docket are listed at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act (FOIA) Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment.

Please make the appointment at least two working days in advance of your visit. There is a fee of 15 cents per page for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Paige, Air Planning Section, (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–6521; fax number 214–665–6762; e-mail address *paige.carrie@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" means EPA. This supplementary information section is arranged as follows:

I. What action is EPA taking?

We are finalizing our determination that the DFW 8-hour ozone moderate nonattainment area failed to attain the 1997 8-hour ozone NAAQS by the applicable attainment date. This determination is based on quality-assured and certified ambient air monitoring data for the years 2007–2009. These data show that the DFW area was violating the 1997 8-hour ozone standard at the time of the June 15, 2010 attainment deadline.

As a result of this action, the DFW area will be reclassified by operation of law as a serious ozone nonattainment area for the 1997 8-hour ozone standard on the effective date of this rulemaking.

The rationale for this action is explained in the Notice of Proposed Rulemaking (NPR) published on August 9, 2000 (75 FR 47746) and will not be restated here. No comments were received on the NPR.

II. What is the effect of this action?

The DFW area will be reclassified by operation of law as a serious ozone nonattainment area for the 1997 8-hour ozone standard on the effective date of this rulemaking. The serious area attainment date for the DFW area is as expeditiously as practicable, but not later than June 15, 2013.

The revised SIP for the DFW area must include all the requirements for serious ozone nonattainment area plans, such as: (1) Attainment and reasonable further progress demonstrations (CAA section 182(c)(2), 40 CFR 51.908 and 40 CFR 51.910); (2) an enhanced monitoring program (CAA section 182(c)(1) and 40 CFR 58.10); (3) an enhanced vehicle inspection and maintenance program (CAA section 182(c)(3) and 40 CFR 51.350); (4) clean fuel vehicle programs (CAA section 182(c)(4)); (5) transportation control (CAA section 182(c)(5)); (6) a 50 ton-per-year major source threshold (CAA section182(c) and 40 CFR 51.165); (7) more stringent new source review requirements (CAA section 182(c)(6) and 40 CFR 51.165); (8) special rules for modification of sources (CAA sections 182(c)(7) and 182(c)(8), and 40 CFR 51.165); (9) contingency provisions (CAA section 182(c)(9)); and (10) increased offsets (CAA section 182(c)(10) and 40 CFR 51.165).[1] See also the requirements for serious ozone nonattainment areas set forth in section 182(c) of the Act. All applicable controls required to demonstrate attainment by June 15, 2013 shall be implemented no later than March 1, 2012.

In addition, the requirements of section 182(b)(3) relating to Stage II gasoline vapor recovery shall apply, provided EPA has not determined that onboard vapor recovery (ORVR) is in widespread use in the motor vehicle fleet and waived the section 182(b)(3) requirement.[2]

III. Final Action

Pursuant to section 181(b)(2) of the Act, EPA is making a final determination that the DFW 8-hour ozone nonattainment area failed to attain the 1997 8-hour ozone standard by June 15, 2010, the attainment date for moderate ozone nonattainment areas. Thus, the DFW area will be reclassified by operation of law as a serious ozone nonattainment area for the 1997 8-hour ozone standard on the effective date of this rulemaking.

The submittal of the serious area SIP revisions will be due to EPA no later than one year after the effective date of this rulemaking; except that the required SIP revision for Stage II vapor recovery will be due to EPA no later than two years after the effective date of this rulemaking, pursuant to section 182(b)(3)(A) of the Act. All applicable controls required to demonstrate attainment by June 15, 2013 shall be implemented no later than March 1, 2012.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994). In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides

[1] For a list of the serious area requirements already in place in the DFW area, see the proposed rulemaking (75 FR 47746).

[2] See the proposed rulemaking for additional information (75 FR 47746).

that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 18, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: December 12, 2010.

Al Armendariz,

Regional Administrator, Region 6.

40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. In § 81.344 the table entitled "Texas—Ozone (8-hour Standard)" is amended by revising the entries for Dallas-Fort Worth, TX and adding a new footnote 5 at the end of the table to read as follows:

§ 81.344 Texas.

* * * * *

TEXAS—OZONE (8-HOUR STANDARD)

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
*	*	*	*	*
Dallas-Fort Worth, TX:				
Collin County	Nonattainment	(5)		Subpart 2/Serious.
Dallas County	Nonattainment	(5)		Subpart 2/Serious.
Denton County	Nonattainment	(5)		Subpart 2/Serious.
Ellis County	Nonattainment	(5)		Subpart 2/Serious.
Johnson County	Nonattainment	(5)		Subpart 2/Serious.
Kaufman County	Nonattainment	(5)		Subpart 2/Serious.
Parker County	Nonattainment	(5)		Subpart 2/Serious.
Rockwall County	Nonattainment	(5)		Subpart 2/Serious.
Tarrant County	Nonattainment	(5)		Subpart 2/Serious.
*	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.
* * * * *
[5] Effective January 19, 2011.
* * * * *

[FR Doc. 2010–31885 Filed 12–17–10; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 262

[EPA–HQ–RCRA–2003–0012; FRL–9240–5]

Technical Corrections to the Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action for six technical corrections to an alternative set of hazardous waste generator requirements known as the "Academic Laboratories rule" or "Subpart K" which is applicable to laboratories owned by eligible academic entities. These changes correct errors published in the Academic Laboratories Final rule, including omissions and redundancies, as well as remove an obsolete reference to the Performance Track program, which has been terminated. These technical corrections will improve the clarity of the Academic Laboratories rule.

DATES: This rule is effective on March 7, 2011 without further notice, unless EPA receives adverse comment by January 19, 2011. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the specific amendments in this Direct Final rule for which the Agency received adverse comment will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2003–0012 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: rcra-docket@epa.gov.*
- *Fax:* 202–566–9794.
- *Mail:* RCRA Docket, Environmental Protection Agency, *Mailcode:* 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–2003–0012. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/dockets.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the RCRA Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270.

FOR FURTHER INFORMATION CONTACT: Kristin Fitzgerald, Office of Resource Conservation and Recovery, (5304P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; (703) 308–8286; *Fitzgerald.Kristin@epa.gov.*

SUPPLEMENTARY INFORMATION:

Why is EPA using a direct final rule?

EPA is publishing this rule without a prior Proposed rule because we view this as a noncontroversial action and anticipate no adverse comment since the changes are minor and consistent with the preamble language from the Final rule of December 1, 2008 (73 FR 72912). However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the Proposed rule to amend 40 CFR Part 262, Subpart K if adverse comments are received on this Direct Final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, *see* the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that those specific amendments in this Direct Final rule for which the Agency received adverse comment will not take effect, and the reason for such withdrawal. We would address all public comments in a subsequent Final rule based on the Proposed rule.

Does this action apply to me?

This Direct Final rule amends Subpart K of 40 CFR part 262. Entities potentially affected by this action are any of the following which generate hazardous waste in laboratories: (1) Colleges and universities; (2) non-profit research institutes that are either owned by or have a formal written affiliation agreement with a college or university; and (3) teaching hospitals that are either owned by or have a formal written affiliation agreement with a college or university.

NAICS CODES OF ENTITIES POTENTIALLY AFFECTED BY THIS DIRECT FINAL RULE

NAICS codes	Description of NAICS code
Colleges & Universities:	
6112, 61121, 611210	Junior Colleges.
6113, 61131, 611310	Colleges, Universities, and Professional Schools.
6115, 61151	Technical and Trade Schools.
611519	Other Technical and Trade Schools.
61161, 611610	Fine Arts Schools.
Teaching Hospitals:	
54194, 541940	Veterinary Services (Animal Hospitals).
622	Hospitals.
6221, 62211, 622110	General Medical and Surgical Hospitals.
6222, 62221, 622210	Psychiatric and Substance Abuse Hospitals.
6223, 62231, 622310	Specialty (except Psychiatric and Substance Abuse) Hospitals.
Non-profit Research Institutes:	
5417, 54171, 541710	Research and Development in the Physical, Engineering, and Life Sciences.
54172, 541720	Research and Development in the Social Sciences and Humanities.

What should I consider as I prepare my comments for EPA?

A. *Submitting CBI.* Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in

accordance with the procedures set forth in 40 CFR part 2.

B. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible.
- Make sure to submit your comments by the comment period deadline identified.

Preamble Outline

I. Statutory Authority

These regulations are promulgated under the authority of §§ 2002, 3001, 3002, and 3004 of the Solid Waste Disposal Act (SWDA) of 1970, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6921, 6922, 6923, and 6924.

II. Explanation of Changes

In today's Direct Final rule, there are six technical corrections to the final Academic Laboratories rule (also referred to as Subpart K), which was published in the **Federal Register** on December 1, 2008 (73 FR 72912).

The first two corrections in today's Direct Final rule are to the definition of "central accumulation area," which is in the section of the Academic Laboratories Final rule entitled Definitions for this subpart (§ 262.200). First, in the Academic Laboratories Final rule, the definition of "central accumulation area" included a reference to the RCRA hazardous waste generator regulations for what are typically called "large quantity generators." The regulatory reference that was included in the Academic Laboratories Final rule was § 262.34(a). However, large quantity generators are also subject to § 262.34(b), if they accumulate hazardous waste for more than 90 days. In the Academic Laboratories Final rule, we inadvertently omitted that additional regulatory reference for large quantity generators; therefore, we are adding it in today's Direct Final rule.

Second, the definition of "central accumulation area" included a reference to the RCRA hazardous waste generator regulations for Performance Track members (specifically § 262.34(j) and (k)) in order to indicate that eligible academic entities that were Performance Track members were eligible to use the Academic Laboratories rule. However, after the Academic Laboratories rule became final, EPA's Performance Track program was terminated (74 FR 22742). Therefore, we are removing the parenthetical statement from the definition of "central accumulation area" that references the generator regulations specifically for Performance Track members, since the reference is now moot.

The third correction in today's Direct Final rule is in the section of the Academic Laboratories Final rule entitled *Labeling and management standards for containers of unwanted material in the laboratory* (§ 262.206). The regulatory text of the Final rule requires that containers of unwanted material be kept closed at all times, with three exceptions. One of the exceptions to the "closed container rule" is when adding, removing or consolidating unwanted material (§ 262.206(b)(3)(i)). In this instance, we use the term "consolidating" to mean combining the contents of several containers into a single container. This is often also referred to as "bulking."

In the preamble to the Final rule (*see* page 72937), we used the term "consolidation" in a different sense. In this instance, we used the term "consolidation" to mean moving containers of unwanted material from one laboratory to another laboratory, such that containers from multiple laboratories can be collected or "consolidated" to accumulate in one laboratory. Under this use of the term, the contents of the containers remain in their original containers, but the location of the containers changes. To eliminate confusion caused by using the same term in two different ways, in § 262.206(b)(3)(i), we are changing the term "consolidating" to "bulking."

The fourth correction in today's Direct Final rule is in the section of the Academic Laboratories Final rule entitled "Making the hazardous waste determination at an on-site interim status or permitted treatment, storage or disposal facility" (§ 262.212). Under paragraph (e)(1) of that section, if an unwanted material is a hazardous waste, an eligible academic entity must "Write the words "hazardous waste" on the container label that is affixed or attached to the container * * *" In a parenthetical following the quoted text, we inadvertently included the phrase "(or on the label that is affixed or attached to the container, if that is preferred)." This parenthetical is repetitive of the text immediately preceding it in paragraph (e)(1); therefore we are amending paragraph § 262.212(e)(1) to eliminate the redundant parenthetical phrase.

The last two corrections in today's Direct Final rule are in the "Laboratory management plan" (LMP) section of the Academic Laboratories rule (§ 262.214). Specifically, eligible academic entities that choose to opt into Subpart K are required to have a written LMP with two parts, and a total of nine elements. Part I of the LMP must contain two elements, while Part II of the LMP must contain seven elements.

The fifth correction in today's Direct Final rule is in the first element of Part I of the LMP (§ 262.214(a)(1)). The preamble to the Academic Laboratories Final rule makes it clear that we intended the first element of Part I of the LMP to include just two items, but the regulatory language inadvertently made it seem like those two items were just *part* of the requirement, rather than the *entire* requirement. Therefore, in § 262.214(a)(1), we are replacing the word "including" with the words "as follows" in order to make clear our intent. In fact, it is in the first element of *Part II* of the LMP (§ 262.214(b)(1)) that eligible academic entities must include their best intended practices for container labeling and management that go beyond the two items required in the first element of Part I.

The sixth correction in today's Direct Final rule is in the first element of Part II of the LMP (§ 262.214(b)(1)). When the Academic Laboratories rule was proposed (71 FR 29712), EPA did not specifically address in-line containers in the container management standards in § 262.206(b). In the Final rule, we added § 262.206(b)(3)(iii)(A) to the container management standards, which specifically addresses the management of in-line containers by allowing venting

of a container when it is necessary for the proper operation of laboratory equipment, such as with in-line collection of unwanted materials from high performance liquid chromatographs.

When § 262.206(b)(3)(iii)(A) was added, we neglected to eliminate the redundant requirement that addresses in-line containers in the first element of Part II of the LMP regulations (§ 262.214(b)(1)). Therefore, we are eliminating the redundant language today.

III. State Authorization

A. Applicability of Rules in Authorized States

Under § 3006 of RCRA, EPA may authorize a qualified State to administer its own hazardous waste program within the State in lieu of the Federal program. Following authorization, EPA retains enforcement authority under §§ 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for State authorization are found at 40 CFR part 271.

Prior to enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final RCRA authorization administered its hazardous waste program entirely in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in that State, since only the State was authorized to issue RCRA permits. When new, more stringent Federal requirements were promulgated, the State was obligated to enact equivalent authorities within specified time frames. However, the new Federal requirements did not take effect in an authorized State until the State adopted the Federal requirements as State law.

In contrast, under RCRA § 3006(g) (42 U.S.C. 6926(g)), which was added by HSWA, new requirements and prohibitions imposed under HSWA authority take effect in authorized States at the same time that they take effect in unauthorized States. EPA is directed by the statute to implement these requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, EPA implements the HSWA provisions in authorized States until the States do so.

Authorized States are required to modify their program only when EPA enacts Federal requirements that are more stringent or broader in scope than the existing Federal requirements. RCRA § 3009 allows the States to impose standards more stringent than those in the Federal program (see also 40 CFR 271.1). Therefore, authorized States may, but are not required to, adopt Federal HSWA and non-HSWA regulations that are considered (1) less stringent or (2) neither more nor less stringent than previous Federal regulations.

B. Effect on State Authorization

These amendments are promulgated under non-HSWA RCRA authority. These non-HSWA amendments will be applicable on the effective date only in those States that do not have final authorization of their base RCRA programs. Authorized States are required to modify their programs only when EPA promulgates Federal regulations that are more stringent or broader in scope than the authorized State regulations. For those changes that are less stringent or reduce the scope of the Federal program, States are not required to modify their program. This is a result of § 3009 of RCRA, which allows States to impose more stringent regulations than the Federal program. Today's amendments are considered to be neither more nor less stringent than the current standards. Therefore, authorized States, while not required to modify their programs to adopt the technical corrections discussed above, are strongly urged to adopt these technical corrections to avoid any confusion or misunderstanding by the regulated community and the public.

IV. Statutory and Executive Order Reviews

As explained above, this action makes technical corrections to the text of the Academic Laboratories rule but does not make any substantive change to the requirements of that rule. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866: Regulatory Planning and Review (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132: Federalism (64 FR 43255, August 10, 1999);
- Does not have Tribal implications as specified by Executive Order 13175: Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000), because, as the rule does not make any substantive changes, it will not impose substantial direct costs on Tribal governments or preempt Tribal law;
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045: Protection of Children from Environmental Health and Safety Risks (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001);
- Does not involve technical standards; thus the requirements of § 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply; and
- Is one for which the EPA lacks the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994).

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impact of today's Direct Final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not create any new regulatory requirements, but rather makes technical corrections to Subpart K of the hazardous waste generator regulations. Although this Direct Final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities.

B. Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 262

Environmental protection, Exports, Hazardous materials transportation, Hazardous waste, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

Dated: December 13, 2010.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble, Part 262 of title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

■ 1. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, and 6938.

Subpart K—Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities

■ 2. Amend § 262.200 to revise the definition of "*central accumulation area*" to read as follows:

§ 262.200 Definitions for this subpart.

* * * * *

Central accumulation area means an on-site hazardous waste accumulation area subject to either § 262.34(a)–(b) of this part (large quantity generators) or § 262.34(d)–(f) of this part (small quantity generators). A central accumulation area at an eligible academic entity that chooses to be subject to this subpart must also comply with § 262.211 when accumulating unwanted material and/or hazardous waste.

* * * * *

■ 3. Amend § 262.206 to revise paragraph (b)(3)(i), to read as follows:

§ 262.206 Labeling and management standards for containers of unwanted material in the laboratory.

* * * * *

(b) * * *

(3) * * *

(i) When adding, removing or bulking unwanted material, or

* * * * *

■ 4. Amend § 262.212 to revise paragraph (e)(1), to read as follows:

§ 262.212 Making the hazardous waste determination at an on-site interim status or permitted treatment, storage or disposal facility.

* * * * *

(e) * * *

(1) Write the words "hazardous waste" on the container label that is affixed or attached to the container within 4 calendar days of arriving at the on-site interim status or permitted treatment, storage or disposal facility and before the hazardous waste may be removed from the on-site interim status or permitted treatment, storage or disposal facility, and

* * * * *

■ 5. Amend § 262.214 to revise paragraphs (a)(1) introductory text and (b)(1), to read as follows:

§ 262.214 Laboratory management plan.

* * * * *

(a) * * *

(1) Describe procedures for container labeling in accordance with § 262.206(a), as follows:

* * * * *

(b) * * *

(1) Describe its intended best practices for container labeling and management (see the required standards at § 262.206).

* * * * *

[FR Doc. 2010–31746 Filed 12–17–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket No. 2001–11213, Notice No. 14]

Alcohol and Drug Testing: Determination of Minimum Random Testing Rates for 2011

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of Determination.

SUMMARY: Using data from Management Information System annual reports, FRA has determined that the 2009 rail industry random testing positive rates were .037 percent for drugs and .014 percent for alcohol. Because the industry-wide random drug testing positive rate has remained below 1.0 percent for the last two years of data, the Federal Railroad Administrator (Administrator) has determined that the minimum annual random drug testing rate for the period January 1, 2011, through December 31, 2011, will remain at 25 percent of covered railroad employees. In addition, because the industry-wide random alcohol testing violation rate has remained below 0.5 percent for the last two years, the Administrator has determined that the minimum random alcohol testing rate will remain at 10 percent of covered railroad employees for the period January 1, 2011, through December 31, 2011.

DATES: This notice of determination is effective December 20, 2010.

FOR FURTHER INFORMATION CONTACT: Lamar Allen, Alcohol and Drug Program Manager, Office of Safety Enforcement, Mail Stop 25, Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, (telephone 202 493–6313); or Kathy Schnakenberg, FRA Alcohol/Drug Program Specialist, (telephone 816 561–2714).

SUPPLEMENTARY INFORMATION:

Administrator's Determination of 2011 Minimum Random Drug and Alcohol Testing Rates

In a final rule published on December 2, 1994 (59 FR 62218), FRA announced

that it will set future minimum random drug and alcohol testing rates according to the rail industry's overall positive rate, which is determined using annual railroad drug and alcohol program data taken from FRA's Management Information System. Based on this data, the Administrator publishes a **Federal Register** notice of determination each year, announcing the minimum random drug and alcohol testing rates for the following year. *See* 49 CFR 219.602, 608.

Under this performance-based system, FRA may lower the minimum random drug testing rate to 25 percent of covered railroad employees whenever the industry-wide random drug positive rate is less than 1.0 percent for two calendar years while testing at a 50 percent minimum rate. For both drugs and alcohol, FRA reserves the right to consider other factors, such as the number of positives in its post-accident testing program, before deciding whether to lower annual minimum random testing rates. If the industry-wide random drug positive rate is 1.0 percent or higher in any subsequent calendar year, FRA will return the minimum random drug testing rate to 50 percent of covered railroad employees.

If the industry-wide random alcohol violation rate is less than 1.0 percent but greater than 0.5 percent, the minimum random alcohol testing rate will be 25 percent of covered railroad employees. FRA will raise the minimum random rate to 50 percent of covered railroad employees if the industry-wide random alcohol violation rate is 1.0 percent or higher in any subsequent calendar year. FRA may lower the minimum random alcohol testing rate to 10 percent of covered railroad employees whenever the industry-wide violation rate is less than 0.5 percent for two calendar years while testing at a higher rate.

In this notice of determination, FRA announces that the minimum random drug testing rate will remain at 25 percent of covered railroad employees for the period January 1, 2011, through December 31, 2011, because the industry random drug testing positive rate was below 1.0 percent for the last two years (.046 in 2008 and .037 in 2009). The minimum random alcohol testing rate will remain at 10 percent of covered railroad employees for the period January 1, 2011, through December 31, 2011, because the industry-wide violation rate for alcohol has remained below 0.5 percent for the last two years (.015 in 2008 and .014 in 2009). Railroads remain free, as always, to conduct random testing at higher rates.

Issued in Washington, DC, on December 13, 2010.

Joseph C. Szabo,

Administrator.

[FR Doc. 2010–31805 Filed 12–17–10; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 101124587–0586–01]

RIN 0648–BA47

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the South Atlantic States; Emergency Rule To Delay Effectiveness of the Snapper-Grouper Area Closure; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; correction.

SUMMARY: This document contains a correction to the temporary rule that delays the effective date of the area closure for snapper-grouper specified in Amendment 17A to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) that was published in the **Federal Register** December 9, 2010.

DATES: Effective December 20, 2010, the effective date of the rule published in the **Federal Register** December 9, 2010 (75 FR 76890), is corrected to January 3, 2011, through June 1, 2011, unless NMFS publishes a superseding document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Anik Clemens, 727–824–5305; *fax:* 727–824–5308; *e-mail: Anik.Clemens@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Need for Correction

On December 9, 2010 (75 FR 76890), NMFS published an incorrect effective date in the **DATES** section of the temporary rule. The **DATES** section contained an incorrect effective date of January 3, 2010. The correct effective date for the temporary rule is January 3, 2011, through June 1, 2011, unless NMFS publishes a superseding document in the **Federal Register.** This document corrects that effective date.

Correction

In FR Doc. 2010–30682 appearing on page 78158 in the **Federal Register** of December 9, 2010, correct the **DATES** section to read as follows:

DATES: This rule is effective January 3, 2011 through June 1, 2011, unless NMFS publishes a superseding document in the **Federal Register**.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 15, 2010.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 2010–31917 Filed 12–17–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

RIN 0648–XA017

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason retention limit adjustment.

SUMMARY: NMFS has determined that the Atlantic tunas General category daily Atlantic bluefin tuna (BFT) retention limit should be adjusted for the month of January 2011, based on consideration of the regulatory determination criteria regarding inseason adjustments. This action applies to Atlantic tunas General category permitted vessels and Highly Migratory Species Charter/Headboat category permitted vessels (when fishing commercially for BFT).

DATES: Effective January 1, 2011, through January 31, 2011.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations

established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006).

The 2011 BFT fishing year, which is managed on a calendar year basis and subject to an annual calendar year quota, begins January 1, 2011. Starting on January 1, 2011, the General category daily retention limit (§ 635.23(a)(2)) is scheduled to revert back to the default retention limit of one large medium or giant BFT (measuring 73 inches (185 cm) CFL) or greater per vessel per day/trip. This default retention limit applies to General category permitted vessels and HMS Charter/Headboat category permitted vessels (when fishing commercially for BFT, as specified and to the extent allowable under the regulations).

Each of the General category time periods (January, June–August, September, October–November, and December) is allocated a portion of the annual General category quota, thereby ensuring extended fishing opportunities in years when catch rates are high. For the 2010 fishing year, NMFS adjusted the General category limit from the default level of one large medium or giant BFT as follows: Two large medium or giant BFT for January (74 FR 68709, December 29, 2009), and three large medium or giant BFT for June through December (75 FR 30730, June 2, 2010; and 75 FR 51182, August 19, 2010).

The 2010 ICCAT recommendation regarding western BFT management resulted in a 2011 U.S. quota of 923.7 mt (not including a 25-mt allocation that the United States uses to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area (NED)). Consistent with the allocation scheme established in the Consolidated HMS FMP, the baseline 2011 General category share would be 435.1 mt, and the baseline 2011 January General category subquota would be 23.1 mt.

In order to implement the ICCAT recommendation, which enters into force in June 2011, NMFS is planning to publish proposed quota specifications in the beginning of 2011 to set BFT quotas for each of the established domestic fishing categories. Until the 2011 quota specifications are finalized (most likely in the spring of 2011), the January General category baseline quota of 23.8 mt (established for 2010) remains in effect. In the meantime, the General category BFT fishery remains active into the winter, with landings reported in November and December.

Adjustment of General Category Daily Retention Limits

Under 50 CFR 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range of zero to a maximum of three per vessel based on consideration of the criteria provided under § 635.27(a)(8), which include: The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the fishery management plan; variations in seasonal distribution, abundance, or migration patterns of BFT; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; and a review of dealer reports, daily landing trends, and the availability of the BFT on the fishing grounds.

NMFS has considered the set of criteria cited above and their applicability to the General category BFT retention limit for the January 2011 General category fishery. For example, under the 2-fish limit that applied in January 2010, January landings were low (2.7 out of the baseline subquota of 23.8 mt, later adjusted in the final 2010 specifications to 28.6 mt). Under the proposed 2011 BFT quota specifications, the baseline 2011 January subquota would be 23.1 mt. Based on these considerations, NMFS has determined that the General category retention limit should be adjusted to allow for retention of the anticipated 2011 General category quota, and that the same approach that was used (and that proved effective) for January 2010 is warranted. Therefore, NMFS increases the General category retention limit from the default limit to two large medium or giant BFT, measuring 73 inches CFL or greater, per vessel per day/trip, effective January 1, 2011, through January 31, 2011. Regardless of the duration of a fishing trip, the daily retention limit applies upon landing. For example, whether a vessel fishing under the General category limit takes a two-day trip or makes two trips in one day, the daily limit of two fish may not be exceeded upon landing. This General category retention limit is effective in all areas, except for the Gulf of Mexico, and applies to those vessels permitted in the General category as well as to those HMS Charter/Headboat permitted vessels fishing commercially for BFT.

This adjustment is intended to provide a reasonable opportunity to harvest the U.S. quota of BFT without exceeding it, while maintaining an equitable distribution of fishing opportunities, to help achieve optimum yield in the General category BFT fishery, to collect a broad range of data for stock monitoring purposes, and to be consistent with the objectives of the Consolidated HMS FMP.

Monitoring and Reporting

NMFS selected the daily retention limit for January 2011 after examining an array of data as it pertains to the determination criteria. These data included, but were not limited to, current and previous catch and effort rates, quota availability, previous public comments on inseason management measures, and stock status, among other data. NMFS will continue to monitor the BFT fishery closely through the mandatory dealer landing reports, which NMFS requires to be submitted within 24 hours of a dealer receiving BFT. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional retention limit adjustments are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas.

Closures or subsequent adjustments to the daily retention limits, if any, will be published in the **Federal Register.** In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872–8862 or (978) 281–9260, or access *http://www.hmspermits.gov,* for updates on quota monitoring and retention limit adjustments.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the Consolidated HMS FMP provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Affording prior notice and opportunity for public comment to implement these retention limits is impracticable as it would preclude NMFS from acting promptly to allow harvest of BFT that are available on the fishing grounds. Analysis of available data shows that the General category BFT retention limits may be increased with minimal risks of exceeding the ICCAT-allocated quota.

Delays in increasing these retention limits would adversely affect those General and Charter/Headboat category vessels that would otherwise have an opportunity to harvest more than the default retention limit of one BFT per day and may exacerbate the problem of low catch rates and quota rollovers. Limited opportunities to harvest the respective quotas may have negative social and economic impacts for U.S. fishermen that depend upon catching the available quota within the time periods designated in the Consolidated HMS FMP. Adjustment of the retention limit needs to be effective January 1, 2011, to minimize any unnecessary disruption in fishing patterns and for the impacted sectors to benefit from the adjustments so as to not preclude fishing opportunities for fishermen who have access to the fishery only during this time period. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, and because this action relieves a restriction (*i.e.,* the default General category retention limit is one fish per vessel/trip whereas this action increases that limit and allows retention of additional fish), there is also good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.23(a)(4) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: December 13, 2010.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–31751 Filed 12–17–10; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 75, No. 243
Monday, December 20, 2010

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

[NRC–2008–0619]

RIN 3150–AI25

Requirements for Fingerprint-Based Criminal History Records Checks for Individuals Seeking Unescorted Access to Research or Test Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is reopening the public comment period for the proposed rule that was published on July 10, 2010. The proposed rule would amend the NRC's regulations by requiring research and test reactor licensees to obtain a fingerprint-based criminal history records check before granting any individual unescorted access to their facilities. The comment period for this proposed rule, which closed on October 4, 2010, is reopened and will remain open until January 31, 2011.

DATES: The comment period for the proposed rule published July 10, 2010 (75 FR 42000), has been reopened and now closes on January 31, 2011. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Please include Docket ID NRC–2008–0619 in the subject line of your comments. For instructions on submitting comments see the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods.

Federal rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2008–0619. Address questions about NRC dockets to Carol Gallagher, telephone: 301–492–3668; e-mail: *Carol.Gallagher@nrc.gov.*

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at 301–415–1966.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852 between 7:30 a.m. and 4:15 p.m. during Federal workdays (telephone: 301–415–1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

FOR FURTHER INFORMATION CONTACT: A. Jason Lising, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3841; e-mail *Jason.Lising@nrc.gov;* or Timothy A. Reed, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1462; e-mail *Timothy.Reed@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, *http://www.regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this document using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *PDR.Resource@nrc.gov.*

Federal rulemaking Web site: Public comments and supporting materials related to this proposed rule can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2008–0619.

Extension Request

On October 3, 2010, Stephen Miller representing The National Organization of Test, Research, and Training Reactors, requested an extension of the public comment period until January 31, 2011 (ADAMS Accession No. ML102790180). The Commission has granted your request. Therefore, the NRC is reopening the public comment period until January 31, 2011.

Dated at Rockville, Maryland, this 14th day of December 2010.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2010–31852 Filed 12–17–10; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. SW022; Special Conditions No. 29–022A–SC]

Special Conditions: Eurocopter France (ECF) Model EC225LP Helicopter, Installation of a Search and Rescue (SAR) Automatic Flight Control System (AFCS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes amended special conditions for the ECF model EC225LP helicopter. This helicopter, as modified by ECF, will have novel or unusual design features associated with installing an optional SAR AFCS. Special conditions No. 29–022–SC, published in the **Federal Register** on November 6, 2008 (73 FR 65968), addressed these issues. The proposed amendment revises the original final special conditions to address comments and to clarify the intent of some requirements. The applicable airworthiness standards do not contain adequate or appropriate safety standards for these design features. These special conditions contain the additional safety standards the Administrator considers necessary to show a level of safety equivalent to that established by the existing airworthiness standards.

DATES: We must receive your comments by January 19, 2011.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Rotorcraft Directorate, Attn: Special Conditions Docket (ASW–111), Docket No. SW022, 2601 Meacham Blvd., Fort Worth, Texas 76137. You may deliver two copies to the Rotorcraft Directorate at the above address. You must mark your comments: Docket No. SW022. You can inspect comments in the Docket on weekdays, except Federal holidays, between 8:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: FAA, Aircraft Certification Service, Rotorcraft Directorate, Regulations and Policy Group (ASW–111), Attn: Stephen Barbini, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5196; facsimile (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will file in the special conditions docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this document between 8:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want the FAA to acknowledge receipt of your mailed comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On March 27, 2006, ECF applied for a change to Type Certificate (TC) No. H4EU to install an optional SAR AFCS in the model EC225LP helicopter. The model EC225LP is a transport category helicopter certified to Category A requirements when configured for more than nine passengers and Category A or B requirements when configured for nine or less passengers. This helicopter is also certified for instrument flight under the requirements of Appendix B of 14 CFR part 29, Amendment 29–47.

The use of dedicated AFCS upper modes, in which a fully coupled autopilot provides operational SAR profiles, is needed for SAR operations conducted over water in offshore areas clear of obstructions. The SAR modes enable the helicopter pilot to fly fully coupled maneuvers, to include predefined search patterns during cruise flight, and to transition from cruise flight to a stabilized hover and departure (transition from hover to cruise flight). The SAR AFCS also includes an auxiliary crew control that allows another crewmember (such as a hoist operator) to have limited authority to control the helicopter's longitudinal and lateral position during hover operations.

Flight operations conducted over water at night may have an extremely limited visual horizon with little visual reference to the surface even when conducted under Visual Meteorological Conditions (VMC). Consequently, the certification requirements for SAR modes must meet Appendix B to 14 CFR part 29. While Appendix B to 14 CFR part 29 prescribes airworthiness criteria for instrument flight, it does not consider operations below instrument flight minimum speed (V_{MINI}), whereas the SAR modes allow for coupled operations at low speed, all-azimuth flight to zero airspeed (hover).

Since SAR operations have traditionally been a public use mission, the use of SAR modes in civil operations requires special airworthiness standards (special conditions) to ensure that a level of safety consistent with Category A and Instrument Flight Rule (IFR) certification is maintained. In this regard, 14 CFR part 29 lacks adequate airworthiness standards for AFCS SAR mode certification to include flight characteristics, performance, and installed equipment and systems.

Type Certification Basis

Under 14 CFR 21.101, ECF must show the EC225LP, as changed, continues to meet the applicable provisions of the rules incorporated by reference in TC No. H4EU or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the TC are commonly referred to as the "original type certification basis." The regulations incorporated by reference in H4EU are as follows:

a. 14 CFR 21.29.

b. 14 CFR part 29 Amendments 29–1 to 29–25; plus § 29.785 through Amendment 29–28; plus §§ 29.963, 29.967, 29.973, 29.975 through Amendment 29–34; plus §§ 29.25, 29.865 through Amendment 29–42; plus §§ 29.1, 29.2, 29.49, 29.51, 29.53, 29.55, 29.59, 29.60, 29.61, 29.62, 29.64, 29.65, 29.67, 29.73, 29.75, 29.77, 29.79, 29.81, 29.83, 29.85, 29.87, 29.307, 29.337, 29.351, 29.361, 29.391, 29.395, 29.397, 29.401, 29.403, 29.413, 29.427, 29.501, 29.519, 29.547, 29.549, 29.561(c), 29.561(d), 29.563, 29.602, 29.610, 29.613, 29.621, 29.625, 29.629, 29.631, 29.663, 29.674, 29.727, 29.755, 29.775, 29.783, 29.787, 29.803, 29.805, 29.807, 29.809, 29.811, 29.855, 29.861, 29.901, 29.903, 29.908, 29.917, 29.923, 29.927, 29.954, 29.961, 29.965, 29.969, 29.971, 29.991, 29.997, 29.999, 29.1001, 29.1011, 29.1019, 29.1027, 29.1041, 29.1043, 29.1045, 29.1047, 29.1093, 29.1125, 29.1141, 29.1143, 29.1163, 29.1181, 29.1189, 29.1193, 29.1305, 29.1309, 29.1323, 29.1329, 29.1337, 29.1351, 29.1359, 29.1415, 29.1521, 29.1549, 29.1557, 29.1587, A29, B29, C29, D29 through Amendment 29–47; plus 29.1317 through Amendment 29–49.

c. 14 CFR part 36 Amendment 21 (ICAO Annex 16, Volume 1, Chapter 8).

d. Equivalent Safety Findings:

(1) TC2899RD–R–F–01; § 29.1303(j), V_{ne} aural warning.

(2) TC2899RD–R–F–02; § 29.1545(b)(4), Airspeed indicators markings.

(3) TC2899RD–R–F–03; § 29.1549(b), Powerplant instruments markings.

(4) TC2899RD–R–F–05; §§ 29.173, 29,175, Static Longitudinal Stability.

(5) TC2899RD–R–F–06; 14 CFR part 29, Appendix B, paragraph IV; IFR

Static Longitudinal Stability–Airspeed stability.

(6) TC2899RD–R–A–01; § 29.807(d)(2), Ditching emergency exits for passengers.

(7) TC2899RD–R–P–01; § 29.923(a)(2), Rotor drive system and control mechanism tests.

In addition to the applicable airworthiness standards and special conditions, the ECF model EC225LP must comply with the noise certification requirements of 14 CFR part 36.

Regulatory Basis for Special Conditions

If the Administrator finds the applicable airworthiness standards (that is, 14 CFR part 29) do not contain adequate or appropriate safety standards for the ECF model EC225LP helicopter because of a novel or unusual design feature, special conditions are prescribed under § 21.16.

The FAA issues special conditions, as defined in § 11.19, under § 11.38, and they become part of the type certification basis under § 21.101.

Special conditions are initially applicable to the model for which they are issued. Should the TC for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same TC be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model.

Novel or Unusual Design Features

The ECF model EC225LP helicopter will incorporate the following novel or unusual design features:

The SAR system is composed of a navigation computer with SAR modes, an AFCS that provides coupled SAR functions, hoist operator control, a hover speed reference system, and two radio altimeters. The AFCS coupled SAR functions include:

(a) Hover hold at selected height above the surface.

(b) Ground speed hold.

(c) Transition down and hover to a waypoint under guidance from the navigation computer.

(d) SAR pattern, transition down, and hover near a target over which the helicopter has flown.

(e) Transition up, climb, and capture a cruise height.

(f) Capture and track SAR search patterns generated by the navigation computer.

(g) Monitor the preselected hover height with automatic increase in collective if the aircraft height drops below the safe minimum height.

These SAR modes are intended to be used over large bodies of water in areas clear of obstructions. Further, use of the modes that transition down from cruise to hover will include operation at airspeeds below V_{MINI}.

The SAR system only entails navigation, flight control, and coupled AFCS operation of the helicopter. The system does not include the extra equipment that may be required for over water flight or external loads to meet other operational requirements.

Discussion of Comments

Final special conditions; request for comments, No. 29–022–SC for ECF model EC225LP helicopters was published in the **Federal Register** on November 6, 2008 (73 FR 65968), with the comment period closing December 22, 2008. One commenter, AgustaWestland (AW), responded to our request for comments and submitted various comments and recommendations.

Referring to subparagraph (a)(3), which deals with a Go Around mode, AW states that they do not agree with a requirement for a function that possibly performs an automatic ascent in case of a detected failure. They state that this could be even an unsafe maneuver during hover while operating the winch. They point out that EASA states in CRI B–03 "The automatic collective control should provide a high integrity function that flies up whenever a SAR mode is coupled and the aircraft is below the minimum safety height, if needed to satisfy the failure demonstrations in § G, 2. The minimum safety height must not rely on crew setting only." They state there are more generic requirements that address the safety aspects induced by SAR operation at low height.

We disagree with the commenter's interpretation of the requirement. The intent of the requirement is for the go-around mode to be manually activated by the pilot in order to avoid a hazardous situation. This action would interrupt any coupled SAR mode and automatically command the helicopter to ascend and accelerate to the instrument flight rules (IFR) envelope. The intent is that the go-around mode be provided in any low-speed environment, such as during hover operations or while transitioning to a hover. The requirement of subparagraph (a)(3) differs from the requirement of automatic transition of the helicopter to the instrument flight envelope in subparagraph (a)(2). Subparagraph (a)(2) requires an automatic transition to the IFR flight envelope when a departure from hover mode is activated as part of the normal SAR mode sequencing. Subparagraph (a)(3) requires a means for the pilot to interrupt the normal SAR modes sequencing, commanding the AFCS to automatically transition the helicopter to the IFR flight envelope. Subparagraph (a)(3) is not intended to require automatic initiation of a go-around following a single failure of the AFCS. Failure modes are addressed in subparagraph (a)(9). While we disagree with AW's interpretation of the requirement, we recognize the wording may be unclear. We have therefore made a change to subparagraph (a)(3) to reflect that the required go-around mode is pilot-selectable and the purpose is to interrupt any other coupled mode. We have also clarified in subparagraph (a)(2) that this requirement pertains to normal SAR mode sequencing.

With respect to subparagraphs (b)(3) and (b)(4) of the SAR Mode System Architecture, the commenter asks if both the sensor variables and the AFCS mode references should be presented to the crew.

We concur with these recommendations, which is consistent with the requirement of subparagraph (b)(2). Therefore, subparagraphs (b)(3) and (b)(4) are revised to additionally require the actual groundspeed and actual heading to be displayed to the pilot.

For subparagraph (b)(5) of the special conditions, AW asks why the wind indication should be available only when the automatic modes are engaged, or transitioning from one mode to another. They state that the wind information should be made available, independently from any AFCS engaged mode, at the beginning of the transition from cruise to hover.

We disagree. Subparagraph (b)(5) requires wind speed and wind direction only when SAR automatic piloting modes are engaged or transitioning from one SAR mode to another. This requirement is intended to be a minimum requirement to ensure wind speed and direction is available for operations near the surface when coupled to the SAR modes. Thus, the requirement is unchanged.

In reference to subparagraph (c)(3), the commenter states that AC 29–1329.d.(5) explains how the deviations caused by a malfunction should be evaluated during an instrument landing system (ILS) approach. The commenter believes that malfunction testing for SAR modes should be evaluated in the same manner since the SAR-mandatory 15-foot buffer above the surface is equivalent to the buffer provided in ILS approaches. Likewise, penetration of this 15-foot buffer does not guarantee a catastrophic event, but should be treated as a hazardous event as long as impact

with the surface is avoided. Therefore, the commenter requests subparagraph (c)(3) be modified to require failures not shown to be extremely remote (a safety objective for hazardous failures) must not result in a loss of height that is greater than half of the MUH with a minimum of 15 feet above the surface.

We disagree with the commenter. The intent of the requirement to have a 15-foot minimum height above the surface, following an AFCS failure, was to provide an acceptable safety margin. The requirement for such a margin stems from the likelihood of encountering hazards such as inconsistent wave heights, floating debris, and other unforeseen obstacles that would create a catastrophic condition if the helicopter penetrated the 15-foot buffer. Therefore, we consider SAR AFCS failure conditions that result in recovery closer than 15 feet above the surface to be catastrophic. We have made non-substantive changes to improve the intent of the requirement.

Additional wording was added to subparagraph (f)(1)(i)(C) that provides linkage to the MUH determination made in subparagraph (c)(3). This change was made for clarification purposes only and is not intended to increase or alleviate the current requirements. We have also defined MUH in subparagraph (c)(3). We do not intend for the SAR AFCS to decouple automatically if the helicopter descends below MUH.

The commenter states that in subparagraphs (g)(4) and (g)(5), the in-flight demonstration of failures should be required only for failures that cannot be shown to be extremely remote. AW states that this requirement would provide some alleviation for the malfunction flight validation. They state that this should be allowed because SAR missions are normally conducted by trained pilots and they should be able to complete the mission even after some malfunction has occurred in flight. Because of the considerable crew workload involved in a SAR mission, the commenter believes that it is important to permit coupling of the Flight Director modes even after a malfunction affecting the AFCS. The commenter believes that the reduction in pilot workload provided by a coupled Flight Director "would considerably reduce the risk of inadvertent pilot operation, a benefit that should be considered in comparison to the probability of "an extremely remote" failure."

We do not agree with commenter. The existing requirement does not require flight testing for failure modes not shown to be extremely improbable; rather, subparagraphs (g)(4) and (g)(5) permit ground or flight testing to demonstrate compliance for failure modes not shown to be extremely improbable. This is consistent with the methodology prescribed in the advisory circular guidance for AFCS failure modes testing.

We made some other minor changes to improve and clarify wording, with no substantive increase or decrease to the current requirements.

In subparagraph (a)(1) we added "(within the maximum demonstrated wind envelope)" to highlight that safe and controlled flight is required throughout the wind envelope. Adding this phrase does not change our intent of SAR envelope definition.

We added, "Pilot-commanded descent below the safe minimum height is acceptable provided the alerting requirements in (b)(7)(i) are sufficient to alert the pilot of this encroachment" to subparagraph (a)(4). This clarifies that the SAR AFCS is permitted to descend below the stored or pilot-selected safe minimum height only when commanded by the pilot, provided the alerting requirements are sufficient to alert the pilot of the descent.

We modified subparagraph (b)(6) to indicate that the AFCS system must monitor for all deviations and failures, not just those that create a hazard, which was our original intent. The alerting requirement does not change; a pilot alert is still required for all deviations and all failures that require pilot-corrective action.

Clarifications were made to subparagraph (b)(7) by adding subparagraph (iii) for normal transitions. We have also denoted the remainder of the subparagraph as a note. This makes the requirement more specific.

We clarified in subparagraph (b)(8) that the hoist operator control has limited authority.

Subparagraph (b)(8)(iii) of the current special condition contains two requirements. We have separated them, so subparagraph (b)(8)(iii) only contains the hoist operator control noninterference requirement and subparagraph (b)(8)(iv) contains the pilot override criteria for the hoist control.

We modified subparagraph (d)(2) by deleting "danger of" from the first sentence. This change does not alter the intent of this requirement.

Subparagraph (d)(3)(iii)(B) was modified to incorporate more general terms to clarify the requirement.

We have changed subparagraph (b)(10) to state a functional hazard assessment must address all failure conditions, not just those that represent catastrophic failure conditions. This change makes this SAR special condition requirement consistent with the requirements of § 29.1309.

We have changed the second paragraph in subparagraph (e)(1)(ii) to a note. This "note" provides information only and is better characterized as a "note." The original wording was always intended to stand as a note, but it was not previously marked as one.

We removed the parenthetical from subparagraph (g)(4) as it is not needed. The intent of this requirement has not changed.

Finally, we clarified subparagraphs (g)(4)(i) and (g)(4)(ii), by changing "transition," "hover," and "cruise" to "transition modes," "hover modes," and "cruise modes," respectively. This general wording allows an applicant more flexibility in the use of SAR mode terminology.

Applicability

These special conditions apply to the ECF model EC225LP helicopters. Should ECF apply at a later date for a change to the TC to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(d).

Conclusion

This action affects only certain novel or unusual design features on one model of helicopter. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 29

Aircraft, Aviation safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

The Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes replacing Special Conditions No. 29–022–SC, Docket No. SW022 (73 FR 65968, November 6, 2008) with the following special conditions as part of the type certification basis for Eurocopter France model EC225LP helicopters when the optional Search and Rescue (SAR) Automatic Flight Control System (AFCS) is installed:

In addition to the part 29 certification requirements for Category A and helicopter instrument flight (Appendix B), the following additional requirements must be met for certification of the SAR AFCS:

(a) *SAR Flight Modes.* The coupled SAR flight modes must provide:

(1) Safe and controlled flight in three axes (lateral and longitudinal position/speed and height/vertical speed) at all airspeeds from instrument flight minimum speed (V_{MINI}) to a hover (within the maximum demonstrated wind envelope).

(2) Automatic transition to the helicopter instrument flight (Appendix B) envelope as part of the normal SAR mode sequencing.

(3) A pilot-selectable Go-Around mode that safely interrupts any other coupled mode and automatically transitions to the helicopter instrument flight (Appendix B) envelope.

(4) A means to prevent unintended flight below a safe minimum height. Pilot-commanded descent below the safe minimum height is acceptable provided the alerting requirements in (b)(7)(i) are sufficient to alert the pilot of this descent below safe minimum height.

(b) *SAR Mode System Architecture.* To support the integrity of the SAR modes, the following system architecture is required:

(1) A system for limiting the engine power demanded by the AFCS when any of the automatic piloting modes are engaged, so FADEC power limitations, such as torque and temperature, are not exceeded.

(2) A system providing the aircraft height above the surface and final pilot-selected height at a location on the instrument panel in a position acceptable to the FAA that will make it plainly visible to and usable by any pilot at their station.

(3) A system providing the aircraft heading and the pilot-selected heading at a location on the instrument panel in a position acceptable to the FAA that will make it plainly visible to and usable by any pilot at their station.

(4) A system providing the aircraft longitudinal and lateral ground speeds and the pilot-selected longitudinal and lateral ground speeds when used by the AFCS in the flight envelope where airspeed indications become unreliable. This information must be presented at a location on the instrument panel in a position acceptable to the FAA that is plainly visible to and usable by any pilot at their station.

(5) A system providing wind speed and wind direction when automatic piloting modes are engaged or transitioning from one mode to another.

(6) A system that monitors for flight guidance deviations and failures with an appropriate alerting function that enables the flight crew to take appropriate corrective action.

(7) An alerting system must provide visual or aural alerts, or both, to the flight crew under any of the following conditions:

(i) When the stored or pilot-selected safe minimum height is reached.

(ii) When a SAR mode system malfunction occurs.

(iii) When the AFCS changes modes automatically from one SAR mode to another.

Note: For normal transitions from one SAR mode to another, a single visual or aural alert may suffice. For a SAR mode malfunction or a mode having a time-critical component, the flight crew alerting system must activate early enough to allow the flight crew to take timely and appropriate action. The alerting system means must be designed to alert the flight crew in order to minimize crew errors that could create an additional hazard.

(8) The SAR system hoist operator control is considered a flight control with limited authority and must comply with the following:

(i) The hoist operator control must be designed and located to provide for convenient operation and to prevent confusion and inadvertent operation.

(ii) The helicopter must be safely controllable by the hoist operator control throughout the range of that control.

(iii) The hoist operator control may not interfere with the safe operation of the helicopter.

(iv) Pilot and copilot flight controls must be able to smoothly override the control authority of the hoist operator control, without exceptional piloting skill, alertness, or strength, and without the danger of exceeding any other limitation because of the override.

(9) The reliability of the AFCS must be related to the effects of its failure. The occurrence of any failure condition that would prevent continued safe flight and landing must be extremely improbable. For any failure condition of the AFCS which is not shown to be extremely improbable:

(i) The helicopter must be safely controllable and capable of continued safe flight without exceptional piloting skill, alertness, or strength. Additional unrelated probable failures affecting the control system must be evaluated.

(ii) The AFCS must be designed so that it cannot create a hazardous deviation in the flight path or produce hazardous loads on the helicopter during normal operation or in the event of a malfunction or failure, assuming corrective action begins within an appropriate period of time. Where multiple systems are installed, subsequent malfunction conditions must be evaluated in sequence unless their occurrence is shown to be improbable.

(10) A functional hazard assessment (FHA) and a system safety assessment must be provided to address the failure conditions associated with SAR operations. For SAR catastrophic failure conditions, changes may be required to the following:

(i) System architecture.

(ii) Software and complex electronic hardware design assurance levels.

(iii) HIRF test levels.

(iv) Instructions for continued airworthiness.

The assessments must consider all the systems required for SAR operations to include the AFCS, all associated AFCS sensors (for example, radio altimeter), and primary flight displays. Electrical and electronic systems with SAR catastrophic failure conditions (for example, AFCS) must comply with the § 29.1317(a)(4) High Intensity Radiated Field (HIRF) requirements.

(c) *SAR Mode Performance Requirements.*

(1) The SAR modes must be demonstrated in the requested flight envelope for the following minimum sea-state and wind conditions:

(i) Sea-State: Wave height of 2.5 meters (8.2 feet), considering both short and long swells.

(ii) Wind: 25 knots headwind; 17 knots for all other azimuths.

(2) The selected hover height and hover velocity must be captured (to include the transition from one captured mode to another captured mode) accurately and smoothly and not exhibit any significant overshoot or oscillation.

(3) For any single failure or any combination of failures of the AFCS that is not shown to be extremely improbable, the recovery must not result in a loss of height greater than half of the minimum use height (MUH) with a minimum margin of 15 feet above the surface. MUH is the minimum height at which any SAR AFCS mode can be engaged.

(4) The SAR mode system must be usable up to the maximum certified gross weight of the aircraft or to the lower of the following weights:

(i) Maximum emergency flotation weight.

(ii) Maximum hover Out-of-Ground Effect (OGE) weight.

(iii) Maximum demonstrated weight.

(d) *Flight Characteristics.*

(1) The basic aircraft must meet all the part 29 airworthiness criteria for helicopter instrument flight (Appendix B).

(2) For SAR mode coupled flight below V_{MINI}, at the maximum demonstrated winds, the helicopter must be able to maintain any required flight condition and make a smooth transition from any flight condition to any other flight condition without

requiring exceptional piloting skill, alertness, or strength, and without exceeding the limit load factor. This requirement also includes aircraft control through the hoist operator's control.

(3) For SAR modes at airspeeds below V_{MINI}, the following requirements of Appendix B to part 29 must be met and will be used as an extension to the IFR certification envelope of the basic aircraft:

(i) Static Longitudinal Stability: The requirements of paragraph IV of Appendix B are not applicable.

(ii) Static Lateral-Directional Stability: The requirements of paragraph V of Appendix B are not applicable.

(iii) Dynamic Stability: The requirements of paragraph VI of Appendix B are replaced with the following two paragraphs:

(A) Any oscillation must be damped and any aperiodic response must not double in amplitude in less than 10 seconds. This requirement must also be met with degraded upper mode(s) of the AFCS. An "upper mode" is a mode that utilizes a fully coupled autopilot to provide an operational SAR profile.

(B) After any upset, the AFCS must return the aircraft to the last commanded position within 10 seconds or less.

(4) With any of the upper mode(s) of the AFCS engaged, the pilot must be able to manually recover the aircraft and transition to the normal (Appendix B) IFR flight profile envelope without exceptional skill, alertness, or strength.

(e) *One-Engine Inoperative (OEI) Performance Information.*

(1) The following performance information must be provided in the Rotorcraft Flight Manual Supplement (RFMS):

(i) OEI performance information and emergency procedures, providing the maximum weight that will provide a minimum clearance of 15 feet above the surface, following failure of the critical engine in a hover. The maximum weight must be presented as a function of the hover height for the temperature and pressure altitude range requested for certification. The effects of wind must be reflected in the hover performance information.

(ii) Hover OGE performance with the critical engine inoperative for OEI continuous and time-limited power ratings for those weights, altitudes, and temperatures for which certification is requested.

Note: These OEI performance requirements do not replace performance requirements that may be needed to comply with the airworthiness or operational standards (§ 29.865 or 14 CFR part 133) for external loads or human external cargo.

(f) *RFMS.*

(1) The RFMS must contain, at a minimum:

(i) Limitations necessary for safe operation of the SAR system to include:

(A) Minimum crew requirements.

(B) Maximum SAR weight.

(C) Engagement criteria for each of the SAR modes to include MUH (as determined in subparagraph (c)(3)).

(ii) Normal and emergency procedures for operation of the SAR system (to include operation of the hoist operator control), with AFCS failure modes, AFCS degraded modes, and engine failures.

(iii) Performance information:

(A) OEI performance and height-loss.

(B) Hover OGE performance information, utilizing OEI continuous and time-limited power ratings.

(C) The maximum wind envelope demonstrated in flight test.

(g) *Flight Demonstration.*

(1) Before approval of the SAR system, an acceptable flight demonstration of all the coupled SAR modes is required.

(2) The AFCS must provide fail-safe operations during coupled maneuvers. The demonstration of fail-safe operations must include a pilot workload assessment associated with manually flying the aircraft to an altitude greater than 200 feet above the surface and an airspeed of at least the best rate of climb airspeed (V_y).

(3) For any failure condition of the SAR system not shown to be extremely improbable, the pilot must be able to make a smooth transition from one flight mode to another without exceptional piloting skill, alertness, or strength.

(4) Failure conditions that are not shown to be extremely improbable must be demonstrated by analysis, ground testing, or flight testing. For failures demonstrated in flight, the following normal pilot recovery times are acceptable:

(i) Transition modes (Cruise-to-Hover/Hover-to-Cruise) and Hover modes: Normal pilot recognition plus 1 second.

(ii) Cruise modes: Normal pilot recognition plus 3 seconds.

(5) All AFCS malfunctions must include evaluation at the low-speed and high-power flight conditions typical of SAR operations. Additionally, AFCS hard-over, slow-over, and oscillatory malfunctions, particularly in yaw, require evaluation. AFCS malfunction testing must include a single or a combination of failures (for example, erroneous data from and loss of the radio altimeter, attitude, heading, and altitude sensors) which are not shown to be extremely improbable.

(6) The flight demonstration must include the following environmental conditions:

(i) Swell into wind.

(ii) Swell and wind from different directions.

(iii) Cross swell.

(iv) Swell of different lengths (short and long swell).

Issued in Fort Worth, Texas, on December 14, 2010.

Bruce E. Cain,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2010–31867 Filed 12–17–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–1199; Directorate Identifier 2010–NM–225–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 737–600, –700, –700C, –800, and –900 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) that applies to the products listed above. The existing AD currently requires replacement of the power control relays in the P91 and P92 power distribution panels for the fuel boost and override pumps with new, improved relays having a ground fault interrupter (GFI) feature, or installation and maintenance of universal fault interrupters (UFIs) using a certain supplemental type certificate. Since we issued that AD, we have determined that we need to clarify which relays may be replaced by installation of UFIs. This proposed AD would continue to require the actions of the existing AD and also specify which relays may be replaced by GFIs or UFIs. We are proposing this AD to prevent pump housing burn-through due to electrical arcing, which could create a potential ignition source inside a fuel tank. This condition, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by February 3, 2011.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; *e-mail me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6482; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–1199; Directorate Identifier 2010–NM–225–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On July 27, 2010, we issued AD 2010–17–05, Amendment 39–16395 (75 FR 50859, August 18, 2010), for certain Model 737–600, –700, –700C, –800, and –900 series airplanes. That AD requires replacement of the power control relays in the P91 and P92 power distribution panels for the fuel boost and override pumps with new, improved relays having a ground fault interrupter (GFI) feature, or installation and maintenance of universal fault interrupters (UFIs) using a certain supplemental type certificate. That AD resulted from fuel system reviews conducted by the manufacturer. We issued that AD to prevent pump housing burn-through due to electrical arcing, which could create a potential ignition source inside a fuel tank. This condition, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Actions Since Existing AD Was Issued

Since we issued AD 2010–17–05, we have determined that there are errors in paragraph (f) of that AD. Paragraph (f)(2) of AD 2010–17–05 contained a typographical error in the reference to the STC number; that AD refers to "STC ST02079LA" instead of the intended "ST02076LA." That paragraph also permits, in error, installation of the STC as an acceptable means of compliance for replacing relays R18, R19, R20, R21, R54, and R55. STC ST02076LA is a method of compliance only for relays R54 and R55.

Since the STC number was referenced incorrectly, no operator could have used STC ST02076LA as a method of compliance for relays R18, R19, R20, or R21, unless an alternative method of compliance (AMOC) was approved. No AMOCs were approved for AD 2010–17–05.

Paragraph (g)(1) of this notice of proposed rulemaking (NPRM) has been revised to specify that Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009, must be used to accomplish replacement of relays R18, R19, R20, and R21. Paragraph (g)(2) of this NPRM has been revised to specify that relays R54 and R55 must be replaced in accordance with either the service bulletin or by installing and maintaining UFIs using STC ST02076LA.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would retain certain requirements of AD 2010–17–05 with new compliance times. This proposed AD would also correct the reference to the STC and specify which relays may be replaced with UFIs by installing STC ST02076LA.

Change to Existing AD

Since AD 2010–17–05 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2010–17–05	Corresponding requirement in this proposed AD
Paragraph (f)	Paragraph (g).
Paragraph (g)	Paragraph (h).

Costs of Compliance

We estimate that this proposed AD affects 754 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installation of GFI relays (retained actions from existing AD—which are restated as a convenience for operators).	8 work-hours × $85 per hour = $680.	$11,010	$11,690	$8,814,260

The new requirements of this proposed AD add no additional economic burden.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2010–17–05, Amendment 39–16395 (75 FR 50859, August 18, 2010), and adding the following new AD:

The Boeing Company: Docket No. FAA–2010–1199; Directorate Identifier 2010–NM–225–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by February 3, 2011.

Affected ADs

(b) This AD supersedes AD 2010–17–05, Amendment 39–16395.

Applicability

(c) This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009.

Subject

(d) Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 28: Fuel.

Unsafe Condition

(e) This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent pump housing burn-through due to electrical arcing, which could create a potential ignition source inside a fuel tank. This condition, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

(f) Comply with this AD within the compliance times specified, unless already done.

Replacement or Installation

(g) Within 60 months after the effective date of this AD, do the actions required in paragraphs (g)(1) and (g)(2) of this AD.

(1) Replace the power control relays that are located in the R18, R19, R20, and R21 positions in the P91 and P92 power distribution panels for the fuel boost pumps with new, improved relays, part number KDAG–X4F–001, having a ground fault interrupter (GFI) feature, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009.

(2) Replace the power control relays that are located in the R54 and R55 positions in the P91 and P92 power distribution panels for the fuel override pumps, in accordance with the actions required in paragraph (g)(2)(i) or (g)(2)(ii) of this AD.

(i) Replace with new, improved relays, part number KDAG–X4F–001, having a GFI feature, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009.

(ii) Install and maintain TDG Aerospace universal fault interrupters (UFIs) using Supplemental Type Certificate ST02076LA, issued October 26, 2007.

Note: Boeing Alert Service Bulletin 737–28A1201, Revision 1, dated May 28, 2009, refers to Honeywell Service Bulletin 1151932–24–61 and Honeywell Service Bulletin 1151934–24–62, both Revision 5, both dated May 25, 2009, as additional sources of guidance for replacement of the power control relays in the P91 and P92 power distribution panels.

Credit for Actions Accomplished in Accordance With Previous Service Information

(h) Actions done before the effective date of this AD in accordance with Boeing Alert Service Bulletin 737–28A1201, dated February 19, 2007, are acceptable for compliance with the requirements of paragraphs (g)(1) and (g)(2)(i) of this AD, provided that Revision 5 of Honeywell Service Bulletins 1151932–24–61 and 1151934–24–62, both dated May 25, 2009, is used as an additional source of guidance.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be e-mailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your Principal Maintenance Inspector

or Principal Avionics Inspector, as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

Related Information

(j) For more information about this AD, contact Georgios Roussos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6482; fax (425) 917–6590.

(k) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; *e-mail me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on December 10, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–31828 Filed 12–17–10; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34–63347; File No. S7–35–10]

RIN 3235–AK79

Security-Based Swap Data Repository Registration, Duties, and Core Principles

Correction

In proposed rule document 2010–29719 beginning on page 77306 in the issue of December 10, 2010, make the following corrections:

1. On page 77320, in the third column, footnote 74, in the fourth line, "recordkeeping" should read "record keeping".

2. On page 77321, in the second column, below the heading *Request for Comment,* in the fifth bulleted paragraph, in the tenth line, "requiring" should read "require".

3. On page 77324, in the third column, footnote 90, in the fifth line, "recordkeeping" should read "record keeping".

4. On page 77338, the last line of text in the third column, prior to footnote 164 on the page, should read "information maintained by the SDR,[165]".

5. On the same page, in the same column, after footnote 164, add footnote 165 to read as follows:

[165] *See* Public Law 111–203 (adding Exchange Act Section 12(n)(5)(D)(i)).

6. On page 77347, in the second column, in the tenth line from the bottom of the page, "conflict" should read "conflicts".

7. On page 77356, in the third column, in thirty-first line, "systematically" should read "systemically".

8. On the same page, in the same line of the same column, "Therefor" should read "Therefore".

§ 249.1500 [Corrected]

9. On page 77375, in § 249.1500, before the first line in the first column, insert the following text:

EXHIBITS—BUSINESS ORGANIZATION

13. List as Exhibit A any person as defined in Section 3(a)(9) of the

10. On the same page, in the second column, in the fifth, eleventh, and fifteenth lines from the bottom of the page, "l5" should read "15".

[FR Doc. C1–2010–29719 Filed 12–17–10; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 500

[Docket No. FDA–2010–N–0612]

Animal Drugs, Feeds, and Related Products; Regulation of Carcinogenic Compounds in Food-Producing Animals

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its regulations regarding compounds of carcinogenic concern used in food-producing animals. Specifically, the Agency is clarifying the definition of "S_o" and revising the definition of "S_m" so that it conforms to the clarified definition of S_o. Other clarifying and conforming changes are also being made.

DATES: Submit either electronic or written comments on the proposed rule by March 7, 2011. Submit comments on information collection issues under the Paperwork Reduction Act of 1995 by January 19, 2011 (*see* the "Paperwork Reduction Act of 1995" section of this document).

ADDRESSES: You may submit comments, identified by Docket No. FDA–2010–N–0612, by any of the following methods, except that comments on information collection issues under the Paperwork Reduction Act of 1995 must be submitted to the Office of Regulatory Affairs, Office of Management and Budget (OMB) (*see* the "Paperwork Reduction Act of 1995" section of this document).

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

- *Fax:* 301–827–6870.
- *Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. and Regulatory Information Number (RIN) (if a RIN number has been assigned) for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, *see* the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kevin Greenlees, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6975. e-mail: *kevin.greenlees@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Food, Drug, and Cosmetic Act (the FD&C Act) contains three anticancer, or Delaney, clauses: Sections 409(c)(3)(A), 512(d)(1)(I), and 721(b)(5)(B)(i) (21 U.S.C. 348(c)(3)(A), 360b(d)(1)(I), and 379e(b)(5)(B)(i)), pertaining to food additives, new animal drugs, and color additives, respectively.

These clauses prohibit approval of substances that have been shown to induce cancer in man or animals. However, each clause contains an exception, termed the "Diethylstilbestrol (DES) Proviso," that permits administration of such substances to food-producing animals where: (1) The food additive, color additive, or new animal drug will not adversely affect the animal; and (2) no residue of the food additive, color additive, or new animal drug will be found in any edible portion of that animal by a method of examination prescribed or approved by the Secretary of Health and Human Services by regulation. The regulations under part 500 (21 CFR part 500), subpart E entitled "Regulation of Carcinogenic Compounds Used in Food-Producing Animals," implement the DES Proviso. To elaborate on how to determine that there is no residue, and thus demonstrate that the second prong of the DES Proviso has been satisfied, the regulations define several terms, including S_o and S_m.

S_o is currently defined as the concentration of the compound of carcinogenic concern in the total diet of test animals that corresponds to a maximum lifetime risk of cancer to the test animals of 1 in 1 million, and is calculated from tumor data of the cancer bioassays using a statistical extrapolation procedure. The definition of S_o also provides that FDA will assume that the S_o corresponds to the concentration of residue of carcinogenic concern in the total human diet that represents no significant increase in the risk of cancer to people. The concentration, derived from the S_o, of residues of carcinogenic concern in a specific edible tissue is termed the S_m. Sponsors are required to submit to FDA a regulatory analytical method that is an aggregate of all experimental procedures for measuring and confirming the presence of the marker residue of the sponsored compound in the target tissue of the target animal. FDA can be assured that there is no residue of carcinogenic concern when no residue of the compound is detectable (that is, the marker residue is below the limit of detection) using the approved regulatory analytical method.[1] A marker residue is selected whose concentration is in a known relationship to the concentration of the residue of carcinogenic concern in the last tissue to deplete to its S_m. This tissue is known as the target tissue and the concentration of the marker residues is known as the R_m. The limit of detection of the approved regulatory analytical method must be capable of measuring the selected marker residue at the R_m in the selected target tissue. When residues of carcinogenic concern are below the R_m in the target tissue as measured by the approved regulatory analytical method, the residues of carcinogenic concern in target tissue and all other edible tissues are below their respective S_m and therefore consumption of tissues containing these residues would not exceed the S_o. The detection of the marker residue in the target tissue below the R_m by the approved regulatory analytical method can be taken as confirmation that the residue of carcinogenic concern does not exceed S_m in each of the edible tissues and, therefore, that the residue of carcinogenic concern in the diet of people does not exceed S_o. However, any detectable concentration of the marker residue by the approved regulatory analytical method, even if below the R_m, fails to satisfy the statutory requirements of the DES Proviso. The detection of any concentration would mean that the second prong of the DES Proviso has not been satisfied because it has not been shown that no residue of the substance is present in any edible portion of the animal at issue.

As described previously, the approach for evaluating compounds of carcinogenic concern currently set forth in § 500.84 utilizes a statistical extrapolation procedure that calculates a concentration of residue of carcinogenic concern that corresponds to a maximum lifetime risk to the test animal of 1 in 1 million. In addition, to provide flexibility, § 500.90 permits the use of alternative procedures to satisfy the DES Proviso, when the person requesting the use of alternative procedures clearly sets forth the reasons why the alternative procedures will provide a basis for concluding that approval of the compound satisfies the requirements of the Delaney Clause provisions of the FD&C Act, including the DES Proviso.

In recent years, FDA has, at times, been asked to consider allowing the use of alternative procedures to satisfy the DES Proviso. Some of these proposed alternative procedures did not rely on a statistical extrapolation of the data to a 1 in 1 million risk of cancer to test animals, but nevertheless the S_o, S_m, R_m, and regulatory analytical method resulting from these alternative approaches would be expected to ensure that consumption of food derived from animals treated with the carcinogenic new animal drug would result in no significant increase in the risk of cancer to people. In the course of considering these proposed alternative procedures, FDA has also considered whether the term S_o, as currently defined, adequately addresses concentrations of residues of carcinogenic concern in the total human diet that are found to represent no significant increase in the risk of cancer to people, but which are not derived from a statistical extrapolation of data to a 1 in 1 million risk of cancer to test animals.

The current definition in § 500.82 primarily defines S_o as the concentration of the compound of carcinogenic concern that corresponds to the 1 in 1 million lifetime risk of cancer to the test animals and secondarily as corresponding to the concentration of residue of carcinogenic concern in the total human diet that represents no significant increase in a risk of cancer to people. Therefore, as presently constructed, the definition of S_o is not primarily defined as the concentration of residues of carcinogenic concern in the total human diet derived from procedures not involving the extrapolation of data to a 1 in 1 million risk of cancer to the test animals. Thus, were FDA to allow the use of alternative procedures that do not rely on a statistical extrapolation of the data to a 1 in 1 million risk of cancer to test animals to satisfy the DES Proviso, it would have to develop a new set of terminology to describe the Center for Veterinary Medicine's (CVM's) approach for evaluating these compounds of carcinogenic concern. The proposed changes to the definitions of S_o and S_m are intended to enable CVM to consider allowing the use of alternative procedures to satisfy the DES Proviso without requiring the development of a second, alternative, set of terminology.

FDA believes that a careful reading of the December 31, 1987, final rule (52 FR 49572 at 49586), suggests that an emphasis on no significant increase in the risk of cancer to the human consumer, rather than on the specific 1 in 1 million risk of cancer to the test animals approach, reflects the original intent of the regulation. (*See, e.g.,* 52 FR 49572 at 49575 and 49582.) FDA has concluded that the proposed redefinition of S_o is consistent with this original intent of the regulation.

For clarification purposes, FDA is also proposing a redefinition of S_m in § 500.82 to conform this definition with the redefinition of S_o as described previously. Specifically, S_m would mean the concentration of a residue of carcinogenic concern in a specific edible tissue corresponding to no

[1] The submission of such a method is approved as a collection of information under Office of Management and Budget (OMB) Control No. 0910–0032.

significant increase in the risk of cancer to the human consumer. However, the definition of S_m would also retain the existing reference to a maximum lifetime risk of cancer in the test animals of 1 in 1 million.

Finally, FDA is proposing to amend § 500.84(c) to clarify that for each compound that is regulated as a carcinogen, FDA will analyze the data submitted using either a statistical extrapolation procedure as provided in § 500.84(c)(1) or an alternate approach as provided in § 500.90.

FDA's goal in these changes is to clarify that the terms S_o and S_m apply even when the alternative procedures provided for in § 500.90 are used to satisfy the DES Proviso, not to alter the usual process for approving compounds of carcinogenic concern. As such, in the absence of a waiver of the requirements of § 500.84(c)(1), FDA maintains that sponsors must meet the conditions for approval set for in § 500.84, including the default approach of a 1 in 1 million lifetime risk to the test animal.

II. Legal Authority

This rule, if finalized, would amend part 500, subpart E in a manner consistent with the Agency's current understanding and application of these provisions. FDA was given authority in 21 U.S.C. 348, 360b, and 379e to establish methods of examination to determine that no residue of a food additive, new animal drug, or color additive of carcinogenic concern would be found in any edible portion of animals after slaughter or in any food yielded by or derived from living animals. Furthermore, FDA has the authority to take the actions proposed in this rule under various statutory provisions. These provisions include 21 U.S.C. 321, 331, 348, 360b, 371, and 379e.

III. Environmental Impact

The Agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Economic Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Agency believes that this proposed rule is not a significant regulatory action as defined by the Executive order.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the proposed rule would not impose any direct or indirect costs on industry or government through the changes to the definitions of S_o and S_m and to § 500.84(c), but rather would clarify these definitions to enable FDA to consider using alternative procedures to satisfy the DES Proviso without requiring the development of a second, alternative, set of terminology, the Agency proposes to certify that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing "any rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year." The current threshold after adjustment for inflation is $135 million, using the most current (2009) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

V. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the proposed rule, if finalized, would not contain policies that would have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the Agency tentatively concludes that the proposed rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VI. Paperwork Reduction Act of 1995

This proposed rule refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in § 500.84 have been approved under OMB Control No. 0910–0032.

VII. Request for Comments

FDA requests comments to the proposed revisions to the definitions of S_m and S_o currently found in § 500.82(b) and to the proposed conforming changes to § 500.84(c). Specifically, the Agency requests that comments focus on the proposal to emphasize "no significant increase in the risk of cancer to the human consumer," rather than the more specific "1 in 1 million risk of cancer to the test animals" approach currently found in the definitions of S_m and S_o.

Interested persons may submit to the Division of Dockets Management (*see* **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

VIII. Proposed Effective Date

The Agency is proposing that any final rule that may issue based upon this proposed rule become effective upon publication in the **Federal Register**.

List of Subjects in 21 CFR Part 500

Animal drugs, Animal feeds, Cancer, Labeling, Packaging and containers, Polychlorinated biphenyls (PCB's).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 500 be amended as follows:

PART 500—GENERAL

1. The authority citation for 21 CFR part 500 is revised to read as follows:

Authority: 21 U.S.C. 321, 331, 342, 343, 348, 351, 352, 353, 360b, 371, 379e.

2. Revise the definitions of "S_m" and "S_o" in paragraph (b) of § 500.82 to read as follows:

§ 500.82 Definitions.

* * * * *

(b) * * *

S_m means the concentration of a residue of carcinogenic concern in a specific edible tissue corresponding to no significant increase in the risk of

cancer to the human consumer. For the purpose of § 500.84(c)(1), FDA will assume that this S_m will correspond to the concentration of residue in a specific edible tissue that corresponds to a maximum lifetime risk of cancer in the test animals of 1 in 1 million.

S_o means the concentration of a residue of carcinogenic concern in the total human diet that represents no significant increase in the risk of cancer to the human consumer. For the purpose of § 500.84(c)(1), FDA will assume that this S_o will correspond to the concentration of test compound in the total diet of test animals that corresponds to a maximum lifetime risk of cancer in the test animals of 1 in 1 million.

* * * * *

3. Revise the introductory text of paragraph (c) of § 500.84 to read as follows:

§ 500.84 Conditions for approval of the sponsored compound.

* * * * *

(c) For each sponsored compound that FDA decides should be regulated as a carcinogen, FDA will either analyze the data from the bioassays using a statistical extrapolation procedure as outlined in paragraph (c)(1) of this section or evaluate an alternate procedure proposed by the sponsor as provided in § 500.90. In either case, paragraphs (c)(2) and (c)(3) of this section apply.

* * * * *

Dated: December 15, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–31887 Filed 12–17–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 63

RIN 2900–AN73

Health Care for Homeless Veterans Program

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish regulations for contracting with community-based treatment facilities in the Health Care for Homeless Veterans (HCHV) program of the Department of Veterans Affairs (VA). It would formalize VA's policies and procedures in connection with this program, which is designed to assist certain homeless veterans in obtaining treatment from non-VA community-based providers. It would also clarify that veterans with substance use disorders may qualify for the program.

DATES: Comments on the proposed rule, including comments on the information collection provisions, must be received on or before February 18, 2011.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to 202–273–9026. Comments should indicate that they are submitted in response to "RIN 2900–AN73, Health Care for Homeless Veterans Program." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Robert Hallett, Healthcare for Homeless Veterans Manager, c/o Bedford VA Medical Center, 200 Springs Road, Bldg. 12, Bedford, MA 01730; (781) 687–3187 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The HCHV program is authorized by 38 U.S.C. 2031, under which VA may provide outreach as well as "care, treatment, and rehabilitative services (directly or by contract in community-based treatment facilities, including halfway houses)" to "veterans suffering from serious mental illness, including veterans who are homeless." One of VA's national priorities is a renewed effort to end homelessness for veterans. For this reason, we are proposing to establish regulations that are consistent with the current administration of this program.

The primary mission of the HCHV program is to use outreach efforts to contact and engage veterans who are homeless and suffering from serious mental illness or a substance use disorder. Many of the veterans for whom the HCHV program is designed have not previously used VA medical services or been enrolled in the VA health care system.

Through the HCHV program, VA identifies homeless veterans with serious mental illness and/or substance use disorder, usually through medical intervention, and offers community-based care to those whose conditions are determined, clinically, to be managed sufficiently that the individuals can participate in such care. We have assisted homeless veterans with substance use disorders through this program because, based on our practical understanding and experience, the vast majority of homeless veterans have substance use disorders. Treating substance use as a mental disorder is consistent with the generally accepted "disease model" of alcoholism and drug addiction treatment, as well as the modern use of medical intervention to treat the condition. We believe that if a substance use disorder is a contributing cause of homelessness, then that disorder is serious; therefore, it is consistent to include such veterans in a program designed for "veterans suffering from serious mental illness, including veterans who are homeless." 38 U.S.C. 2031(a).

Veterans who are identified and who choose to participate in this form of care as part of their treatment plan are then referred by VA to an appropriate non-VA community-based provider. In some cases, VA will continue to actively medically manage the veteran's condition, while in other cases a VA clinician may determine that a veteran can be sufficiently managed through utilization of non-medical resources, such as 12-step programs.

To provide the community-based care, VA contracts, via the HCHV program, with non-VA community-based providers, such as halfway houses, to provide to these veterans housing and mental health and/or substance use disorder treatment. VA provides per diem payments to these non-VA community-based providers for the services provided to veterans. Service provision within these contracts is typically short-term, because during their stay veteran-participants are connected with other resources designed to provide longer-term housing. These contracts, and the per diem payment, are governed by the Federal Acquisition Regulations, and the VA supplements thereto contained in the Veterans Affairs Acquisition Regulations at chapter 8 of title 48, CFR. These are the rules that specifically govern requirements exclusive to VA contracting actions.

We propose to establish a new 38 CFR part 63 for the HCHV program because the program is unique and the proposed rule would not apply to therapeutic housing or other VA programs designed to end homelessness. The primary purposes of this rulemaking are to establish eligibility criteria for veterans

and set forth the parameters for selection of non-VA community-based providers. In addition, the proposed rule would clarify that HCHV contract residential treatment may be provided to homeless veterans with substance use disorders, which, as discussed above, are serious mental disorders when they cause or contribute to homelessness. Finally, we note that the proposed rule would be consistent with VA's overall, renewed efforts to end homelessness for our Nation's veterans.

After a general description of the purpose and scope of the HCHV program in proposed § 63.1, we would set forth in § 63.2 a few definitions applicable to these regulations.

We would define a "clinician" as a physician, physician assistant, nurse practitioner, psychiatrist, psychologist, or other independent licensed practitioner. This is consistent with the common understanding of the term and with the definition set forth in 38 CFR 70.2.

We would define "homeless" consistent with 38 U.S.C. 2002(1), which defines a "homeless veteran" as "a veteran who is homeless (as that term is defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a))." Under 42 U.S.C. 11302(a), "homeless" means "(1) an individual who lacks a fixed, regular, and adequate nighttime residence; and (2) an individual who has a primary nighttime residence that is (A) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill); (B) an institution that provides a temporary residence for individuals intended to be institutionalized; or (C) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings." We interpret section 2002(1) to mean Congress intended that, for purposes of VA benefits for homeless veterans, we would define "homeless" consistent with the homeless assistance statutes administered by the Department of Health and Human Services, to include any future amendment of the definition of "homeless" in section 11302(a). We therefore propose to define "homeless" by cross-referencing section 11302(a).

In order to be eligible for the HCHV program, a veteran must have a serious mental illness and/or a substance use disorder. This is a clinical determination made in the veteran's medical record. The condition must also be a cause, or potential cause, of the veteran's homelessness. We propose to define "serious mental illness" and "substance use disorder" as diagnosed illnesses that actually or potentially contribute to a veteran's homelessness. By requiring a connection between a clinical diagnosis and homelessness, we intend to address only those disorders that cause or contribute to a veteran's homelessness. This is consistent with the overall purpose of 38 U.S.C. 2031, and the focus of the HCHV program on eradicating the causes of homelessness.

We would define "non-VA community-based provider" as "a facility in a community that provides temporary, short-term housing (generally up to 6 months) for the homeless, as well as services such as rehabilitation services, community outreach, and basic mental-health services." This definition will cover the types of facilities that cater to the population served by the HCHV program. Persons who need long-term housing, or who are homeless but do not require services, are not targeted by this program. This definition is consistent with the use of this term in existing HCHV contracts.

We would define "participant" as "an eligible veteran under § 63.3 for whom VA is paying per diem to a non-VA community-based provider." This definition is logical because the term refers to veterans who are participating in the program. It is also consistent with the use of this term in existing HCHV contracts.

Under § 63.3(a), we would premise eligibility for per diem payments on the non-VA community-based provider's servicing of a veteran who is homeless, eligible for VA medical care, and has a serious mental illness or substance use disorder that is being clinically managed. A finding by a VA clinician that a veteran's condition is clinically managed generally represents the determination that the condition is in a sufficiently stable and managed state to allow participation in the program. We would generally require that the veteran be enrolled in the VA health care system, but would not so require if the veteran is eligible for VA health care under 38 CFR 17.36 regarding care provided to veterans enrolled in the VA health care system or § 17.37 regarding care provided to veterans who are not enrolled in the system. Requiring that the veteran's mental illness or substance use disorder be clinically managed is also consistent with the goals of the HCHV Program, as well as 38 U.S.C. 2031, because non-VA community-based providers are generally not equipped to deal with veterans who have acute, unstable, or untreated mental health issues. Generally, such veterans who are identified through HCHV outreach services should be treated or stabilized at facilities that emphasize medical treatment.

In § 63.3(b), we would establish certain preferences. Because per diem funds are not unlimited, we need to ensure that these funds are used first to assist those veterans who we believe can benefit the most from the HCHV program. We would give first preference to veterans who are new to the VA health care system as a result of VA outreach, or who were referred by community outreach programs, because the HCHV program was established to help get these hard-to-reach populations actively involved in the VA health care system.

Proposed § 63.3(c) clarifies that determinations of eligibility and priority are made by VA and not by non-VA community-based providers.

In § 63.10, we would describe our method of selecting non-VA community-based providers. Under proposed paragraph (a), we would accept applications from facilities that "provide temporary residential assistance for homeless persons with serious mental illness, and/or substance use disorders, and who can provide the specific services and meet the standards identified in § 63.15 and elsewhere in this part." This statement conforms to the basic definition of a non-VA community-based provider that we propose in § 63.2.

In § 63.10(b), we would establish that the general principles governing the award of VA contracts apply to the award of HCHV program contracts. Contracts awarded through the HCHV program are between VA and non-VA community-based providers for short periods of time, and usually do not involve large amounts of money. In this regard, these contracts are similar to contracts for outpatient services made under 38 CFR 17.81 and 17.82. Hence, paragraph (b) is similar to the contract requirements established in those sections. We also note that, under § 63.15(a), the safety requirements applicable to non-VA community-based providers would be identical to those required under § 17.81.

Paragraph (c) would establish the national standards for certain contract terms, but would allow for local, contract-specific rates and contract-lengths. The per diem rate, under paragraph (c)(1), would be established in individual contracts, but would have to be "based on local community needs, standards, and practices." This would allow local VA staff to seek competitive contracts, and to provide per diem at a rate comparable to what the facility

would expect to receive from a private entity.

Paragraph (c)(2) would prescribe similar provisions regarding the length of time for which VA may pay per diem based on a specific veteran. We would provide that contracts should generally not authorize the payment of per diem for a single veteran for a period of longer than 6 months; however, this term will ultimately be subject to the needs of veterans in a specific community. Paragraph (c)(2) would simply attempt to provide guidance in this regard.

In § 63.15, we propose to establish the duties of, and standards applicable to, non-VA community-based providers. These standards would also be set forth in specific contracts. Under the Federal Acquisition Regulations we have authority to require non-VA community-based providers to meet specified standards. These duties and standards are consistent with current practice in the HCHV program, and are generally standard industry practice for the types of non-VA community-based providers that would be affected by this rulemaking. Thus, most providers seeking per diem contracts would already meet these standards. Adherence to these standards is necessary to protect the health, safety, and rehabilitation of this vulnerable population of veterans.

Because group activities and social and community interaction have been shown to be invaluable in the rehabilitation of those suffering from serious mental illnesses or substance use disorders, we would require that the programs of non-VA community-based providers include structured group activities in § 63.15(b)(1), an environment conducive to social interaction in § 63.15(c)(2), and a program which includes community involvement in § 63.15(c)(6).

Because most veterans who qualify for this program will lack their own means of transportation, proposed § 63.15(c)(5) states that a facility in an area offering either public transportation or nearby employment that requires no transit will receive preference over facilities in more remote locations.

In order to ensure that the standards outlined in § 63.15 are adhered to, paragraph (e) would provide for inspections, without prior notice, of facilities to receive the per-diem payment both prior to the contract period and during performance. Any failure to meet the standards in § 63.15 must be remedied to the satisfaction of the inspector before a contract may be awarded or renewed.

Paperwork Reduction Act

This proposed rule includes a provision, § 63.15(e)(3), which constitutes a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521) that requires approval by the Office of Management and Budget (OMB). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking to OMB for review. OMB assigns a control number for each collection of information it approves. Except for emergency approvals under 44 U.S.C. 3507(j), VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. If OMB does not approve the collection of information as requested, VA will immediately remove the provision containing a collection of information or take such other action as is directed by OMB.

Comments on the collection of information contained in this proposed rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies sent by mail or hand delivery to: Director, Office of Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; or through *http://www.Regulations.gov.* Comments should indicate that they are submitted in response to "RIN 2900–AN73, Health Care for Homeless Veterans Program."

OMB is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed rule.

VA considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The proposed amendments to title 38, CFR chapter I contain a collection of information under the Paperwork Reduction Act for which we are requesting approval by OMB. This collection of information is described immediately following this paragraph.

Title: HCHV program.

Summary of collection of information: The proposed rule at § 63.15(e)(3) requires the facility to keep, and provide to VA facility inspectors, documentary evidence sufficient to verify that the facility meets the applicable standards of part 63.

Description of the need for information and proposed use of information: This information is needed for VA to evaluate the facilities and programs of non-VA community-based providers and determine whether the requirements of this part are met.

Description of likely respondents: Non-VA community-based providers.

Estimated number of respondents per year: Approximately 300 non-VA community-based providers, as, historically, each VA Medical Center awards two contracts per year.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: For non-VA community-based providers, 150 hours.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by OMB unless OMB waives such a review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create

a serious inconsistency or otherwise interfere with an action planned or taken by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, economic, legal, and policy implications of this proposed rule have been examined and it has been determined to not be a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed regulatory amendment would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed amendment would not cause a significant economic impact on health care providers, suppliers, or similar entities since only a small portion of the business of affected entities concerns VA beneficiaries. Therefore, pursuant to 5 U.S.C. 605(b), this proposed amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any proposed rule that may result in an expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more (adjusted annually for inflation) in any given year. This proposed rule would have no such effect on State, local, and Tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Program

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are: 64.007, Blind Rehabilitation Centers; 64.009, Veterans Medical Care Benefits; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on December 10, 2010, for publication.

List of Subjects in 38 CFR Part 63

Administrative practice and procedure, Day care, Disability benefits, Government contracts, Health care, Homeless, Housing, Individuals with disabilities, Low and moderate income housing, Public assistance programs, Public housing, Relocation assistance, Reporting and recordkeeping requirements, Veterans.

Dated: December 14, 2010.

Robert C. McFetridge,

Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, VA proposes to amend 38 CFR chapter I to add a new part 63 to read as follows:

PART 63—HEALTH CARE FOR HOMELESS VETERANS (HCHV) PROGRAM

Sec.

Authority: 38 U.S.C. 501, 2031, and as noted in specific sections.

§ 63.1 Purpose and scope.

This part implements the Health Care for Homeless Veterans (HCHV) Program. This program provides per diem payments to non-VA community-based facilities that provide housing, as well as care, treatment and/or rehabilitative services, to homeless veterans who are seriously mentally ill or have a substance use disorder.

(Authority: 38 U.S.C. 501, 2031(a)(2))

§ 63.2 Definitions.

For the purposes of this part:

Clinician means a physician, physician assistant, nurse practitioner, psychiatrist, psychologist, or other independent licensed practitioner.

Homeless has the meaning given that term in section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)).

Non-VA community-based provider means a facility in a community that provides temporary, short-term housing (generally up to 6 months) for the homeless, as well as services such as rehabilitation services, community outreach, and basic mental-health services.

Participant means an eligible veteran under § 63.3 for whom VA is paying per diem to a non-VA community-based provider.

Serious mental illness means diagnosed mental illness that actually or potentially contributes to a veteran's homelessness.

Substance use disorder means alcoholism or addiction to a drug that actually or potentially contributes to a veteran's homelessness.

(Authority: 501, 2002, 2031)

§ 63.3 Eligible veterans.

(a) *Eligibility.* In order to serve as the basis for a per diem payment through the HCHV program, a veteran served by the non-VA community-based provider must be:

(1) Homeless;

(2) Enrolled in the VA health care system, or eligible for VA health care under 38 CFR 17.36 or 17.37; and

(3) Have a serious mental illness and/or substance use disorder,

(i) That has been diagnosed by a VA clinician,

(ii) Is "clinically managed" as determined by a VA clinician (clinical management of a condition may be achieved through non-medical intervention such as participation in a 12-step program), and

(iii) Impacts the veteran's ability for self-care and/or management of financial affairs as determined by a VA caseworker (*i.e.,* a clinician, social worker, or addiction specialist).

(b) *Priority veterans.* In allocating HCHV program resources, VA will give priority to veterans, in the following order, who:

(1) Are new to the VA health care system as a result of VA outreach efforts, and to those referred to VA by community agencies that primarily serve the homeless population, such as shelters, homeless day centers, and soup kitchens.

(2) Have service-connected disabilities.

(3) All other veterans.

(c) VA will refer a veteran to a non-VA community-based provider after VA determines the veteran's eligibility and priority.

(Authority: 501, 2031)

§ 63.10 Selection of non-VA community-based providers.

(a) *Who can apply.* VA may award per diem contracts to non-VA community-based providers who provide temporary residential assistance for homeless persons with serious mental illness, and/or substance use disorders, and

who can provide the specific services and meet the standards identified in § 63.15 and elsewhere in this part.

(b) *Awarding contracts.* Contracts for services authorized under this section will be awarded in accordance with applicable VA and Federal procurement procedures in 48 CFR chapter 8. Such contracts will be awarded only after the quality, effectiveness and safety of the applicant's program and facilities have been ascertained to VA's satisfaction, and then only to applicants determined by VA to meet the requirements of this part.

(c) *Per diem rates and duration of contract periods.*

(1) Per diem rates are to be negotiated as a contract term between VA and the non-VA community-based provider; however, the negotiated rate must be based on local community needs, standards, and practices.

(2) Contracts with non-VA community-based providers will establish the length of time for which VA may pay per diem based on an individual veteran; however, VA will not authorize the payment of per diem for an individual veteran for a period of more than 6 months absent extraordinary circumstances.

(Authority: 38 U.S.C. 501, 2031)

§ 63.15 Duties of, and standards applicable to, non-VA community-based providers.

A non-VA community-based provider must meet all of the standards and provide the appropriate services identified in this section, as well as any additional requirements set forth in a specific contract.

(a) *Facility safety requirements.* The facility must meet all applicable safety requirements set forth in 38 CFR 17.81(a).

(b) *Treatment plans and therapeutic/rehabilitative services.* Individualized treatment plans are to be developed through a joint effort of the veteran, non-VA community-based provider staff and VA clinical staff. Therapeutic and rehabilitative services must be provided by the non-VA community-based provider as described in the treatment plan. In some cases, VA may complement the non-VA community-based provider's program with added treatment services such as participation in VA outpatient programs. Services provided by the non-VA community-based provider generally should include, as appropriate:

(1) Structured group activities such as group therapy, social skills training self-help group meetings or peer counseling.

(2) Professional counseling, including counseling on self care skills, adaptive coping skills and, as appropriate, vocational rehabilitation counseling, in collaboration with VA programs and community resources.

(c) *Quality of life, room and board.*

(1) The non-VA community-based provider must provide residential room and board in an environment that promotes a lifestyle free of substance abuse.

(2) The environment must be conducive to social interaction, supportive of recovery models and the fullest development of the resident's rehabilitative potential.

(3) Residents must be assisted in maintaining an acceptable level of personal hygiene and grooming.

(4) Residential programs must provide laundry facilities.

(5) VA will give preference to facilities located close to public transportation and/or areas that provide employment.

(6) The program must promote community interaction, as demonstrated by the nature of scheduled activities or by information about resident involvement with community activities, volunteers, and local consumer services.

(7) Adequate meals must be provided in a setting that encourages social interaction; nutritious snacks between meals and before bedtime must be available.

(d) *Staffing.* The non-VA community-based provider must employ sufficient professional staff and other personnel to carry out the policies and procedures of the program. There will be at a minimum, an employee on duty on the premises, or residing at the program and available for emergencies, 24 hours a day, 7 days a week. Staff interaction with residents should convey an attitude of genuine concern and caring.

(e) *Inspections.* (1) VA must be permitted to conduct an initial inspection prior to the award of the contract and follow-up inspections of the non-VA community-based provider's facility and records. At inspections, the non-VA community-based provider must make available the documentation described in paragraph (e)(3) of this section.

(2) If problems are identified as a result of an inspection, VA will establish a plan of correction and schedule a follow-up inspection to ensure that the problems are corrected. Contracts will not be awarded or renewed until noted deficiencies have been eliminated to the satisfaction of the inspector.

(3) Non-VA community-based providers must keep sufficient documentation to support a finding that they comply with this section, including accurate records of participants' lengths of stay, and these records must be made available at all VA inspections.

(4) Inspections under this section may be conducted without prior notice.

(f) *Rights of veteran participants.* The non-VA community-based provider must comply with all applicable patients' rights provisions set forth in 38 CFR 17.33.

(g) *Services and supplies.* VA per diem payments under this part will include the services specified in the contract and any other services or supplies normally provided without extra charge to other participants in the non-VA community-based provider's program.

(Authority: 38 U.S.C. 501, 2031)

(The Office of Management and Budget has approved the information collection requirement in this section under control number 2900–0091.)

[FR Doc. 2010–31780 Filed 12–17–10; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2010–0909; FRL–9240–9]

Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of the comment period.

SUMMARY: EPA is extending the comment period for a document published on November 19, 2010 (75 FR 70888). In the November 19, 2010 document, EPA proposed a finding that the Utah State Implementation Plan (SIP) is substantially inadequate to attain or maintain the national ambient air quality standards (NAAQS) or to otherwise comply with the requirements of the Clean Air Act (CAA), based on Utah's rule R307–107, which exempts emissions during unavoidable breakdowns from compliance with emission limitations. At the request of several commentors, EPA is extending the comment period through January 3, 2011.

DATES: Comments must be received on or before January 3, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2010–0909, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

- *E-mail: russ.tim@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop St., Denver, Colorado 80202–1129.
- *Hand Delivery:* Callie Videtich, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop St., Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.
- For additional information on submitting comments, see the November 19, 2010 (75 FR 70888) proposed rule.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Program, Mail Code 8P–AR, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202–1129, phone (303) 312–6479, or e-mail *russ.tim@epa.gov.*

Dated: December 13, 2010.

Judith Wong,

Acting Regional Administrator, Region 8.

[FR Doc. 2010–31892 Filed 12–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 262

[EPA–HQ–RCRA–2003–0012; FRL–9240–6]

Technical Corrections to the Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing six technical corrections to an alternative set of hazardous waste generator requirements known as the "Academic Laboratories rule" or "Subpart K" which is applicable to laboratories owned by eligible academic entities. These changes correct errors published in the Academic Laboratories Final rule, including omissions and redundancies, as well as remove an obsolete reference to the Performance Track program which has been terminated. These technical corrections will improve the clarity of the Academic Laboratories rule.

DATES: Written comments must be received by January 19, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2003–0012 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: rcra-docket@epa.gov.*
- *Fax:* 202–566–9794.
- *Mail:* RCRA Docket, Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–2003–0012. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/dockets.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the RCRA Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270.

FOR FURTHER INFORMATION CONTACT: Kristin Fitzgerald, Office of Resource Conservation and Recovery, (5304P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; (703) 308–8286; *Fitzgerald.Kristin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Why is EPA issuing this proposed rule?

EPA is proposing six technical corrections that clarify the Academic Laboratories rule. In the "Rules and Regulations" section of today's **Federal Register**, EPA is making these technical corrections as a Direct Final rule without a prior Proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the Direct Final rule. If we receive no adverse comment on any of the individual changes we are promulgating today, we will not take further action on this Proposed rule. If, however, we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that those technical corrections of the Direct Final rule for which the Agency received adverse comment will not take effect, and the reason for such withdrawal. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

II. Does this action apply to me?

This rule proposes to amend subpart K of 40 CFR part 262. Entities potentially affected by this action are any of the following which generate hazardous waste in laboratories: (1) Colleges and universities; (2) non-profit research institutes that are either owned by or have a formal written affiliation agreement with a college or university; and (3) teaching hospitals that are either owned by or have a formal written affiliation agreement with a college or university.

NAICS CODES OF ENTITIES POTENTIALLY AFFECTED BY THIS PROPOSED RULE

NAICS codes	Description of NAICS code
Colleges and Universities:	
6112, 61121, 611210	Junior Colleges.
6113, 61131, 611310	Colleges, Universities, and Professional Schools.
6115, 61151	Technical and Trade Schools.
611519	Other Technical and Trade Schools.
61161, 611610	Fine Arts Schools.
Teaching Hospitals:	
54194, 541940	Veterinary Services (Animal Hospitals).
622	Hospitals.
6221, 62211, 622110	General Medical and Surgical Hospitals.
6222, 62221, 622210	Psychiatric and Substance Abuse Hospitals.
6223, 62231, 622310	Specialty (except Psychiatric and Substance Abuse) Hospitals.
Non-profit Research Institutes:	
5417, 54171, 541710	Research and Development in the Physical, Engineering, and Life Sciences.
54172, 541720	Research and Development in the Social Sciences and Humanities.

III. Statutory and Executive Order Reviews

For a complete discussion of all the administrative requirements applicable to this action, see the Direct Final rule in the "Rules and Regulations" section of this **Federal Register**.

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administrations' regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impact of today's Proposed Rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not create any new regulatory requirements, but rather makes technical corrections to subpart K of the hazardous waste generator regulations. Although this Proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this Proposed rule on small entities.

List of Subjects in 40 CFR Part 262

Environmental protection, Exports, Hazardous materials transportation, Hazardous waste, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

Dated: December 13, 2010.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 2010–31744 Filed 12–17–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 5

Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas; Notice of Meeting

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Negotiated Rulemaking Committee meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas.

DATES: Meetings will be held on January 18, 2011, 9:30 a.m. to 6 p.m.; January 19, 2011, 9 a.m. to 6 p.m.; and January 20, 2011, 9 a.m. to 12 p.m.

ADDRESSES: Meetings will be held at the Radisson Hotel Reagan National Airport, 2020 Jefferson Davis Highway, Arlington, Virginia 22202, (703) 920–8600.

FOR FURTHER INFORMATION CONTACT: For more information, please contact Nicole Patterson, Office of Shortage Designation, Bureau of Health Professions, Health Resources and Services Administration, Room 9A–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–9027, E-mail: *npatterson@hrsa.gov* or visit *http://www.hrsa.gov/advisorycommittees/shortage/.*

SUPPLEMENTARY INFORMATION:

Status: The meeting will be open to the public.

Purpose: The purpose of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas is to establish a comprehensive methodology and criteria for Designation of Medically Underserved Populations and Primary Care Health Professional Shortage Areas, using a Negotiated Rulemaking (NR) process. It is hoped that use of the NR process will yield a consensus

among technical experts and stakeholders on a new rule, which will then be published as an Interim Final Rule in accordance with Section 5602 of Public Law 111–148, the Patient Protection and Affordable Care Act of 2010.

Agenda: The meeting will be held on Tuesday, January 18, Wednesday, January 19 and Thursday, January 20. It will include a discussion of the various components of a possible methodology for identifying areas of shortage and underservice, based on the recommendations of the Committee in the previous meeting. The Thursday meeting will also include development of the agenda for the next meeting, as well as an opportunity for public comment.

Requests from the public to make oral comments or to provide written comments to the Committee should be sent to Nicole Patterson at the contact address above at least 10 days prior to the meeting. The meetings will be open to the public as indicated above, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed above at least 10 days prior to the meeting. Members of the public will have the opportunity to provide comments during the meeting on Thursday morning.

Dated: December 14, 2010.

Robert Hendricks,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–31908 Filed 12–17–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 5

Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas; Notice of Meeting

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Negotiated Rulemaking Committee meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas.

DATES: Meetings will be held on February 16, 2011, 9:30 a.m. to 6 p.m.; February 17, 2011, 9 a.m. to 6 p.m.; and February 18, 2011, 9 a.m. to 12 p.m.

ADDRESSES: Meetings will be held at the Legacy Hotel and Meeting Centre, 1775 Rockville Pike, Rockville, Maryland 20852, (301) 881–2300.

FOR FURTHER INFORMATION CONTACT: For more information, please contact Nicole Patterson, Office of Shortage Designation, Bureau of Health Professions, Health Resources and Services Administration, Room 9A–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–9027, E-mail: *npatterson@hrsa.gov* or visit *http://www.hrsa.gov/advisorycommittees/shortage/.*

SUPPLEMENTARY INFORMATION:

Status: The meeting will be open to the public.

Purpose: The purpose of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas is to establish a comprehensive methodology and criteria for Designation of Medically Underserved Populations and Primary Care Health Professional Shortage Areas, using a Negotiated Rulemaking (NR) process. It is hoped that use of the NR process will yield a consensus among technical experts and stakeholders on a new rule, which will then be published as an Interim Final Rule in accordance with Section 5602 of Public Law 111–148, the Patient Protection and Affordable Care Act of 2010.

Agenda: The meeting will be held on Wednesday, February 16, Thursday, February 17 and Friday, February 18. It will include a discussion of the various components of a possible methodology for identifying areas of shortage and underservice, based on the recommendations of the Committee in the previous meeting. The Friday meeting will also include development of the agenda for the next meeting, as well as an opportunity for public comment.

Requests from the public to make oral comments or to provide written comments to the Committee should be sent to Nicole Patterson at the contact address above at least 10 days prior to the meeting. The meetings will be open to the public as indicated above, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed above at least 10 days prior to the meeting. Members of the public will have the opportunity to provide comments during the meeting on Friday morning.

Dated: December 14, 2010.

Robert Hendricks,

Director, Division of Policy and Information Coordination.

[FR Doc. 2010–31911 Filed 12–17–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 100413185–0213–01]

RIN 0648–AY84

Groundfish Fisheries of the Exclusive Economic Zone Off Alaska; American Fisheries Act; Recordkeeping and Reporting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This action would amend the regulations implementing the American Fisheries Act that require cooperatives participating in the directed fishery for pollock in the Bering Sea to prepare and submit preliminary annual reports to the North Pacific Regional Fishery Management Council. The Council determined that the requirement for a preliminary annual report is no longer necessary. However, this proposed action would retain the requirement for the cooperatives to submit a single annual report to the Council. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws.

DATES: Comments must be received no later than January 4, 2011.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by RIN 0648–AY84, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*
- *Fax:* 907–586–7557, Attn: Ellen Sebastian.

• *Mail:* P.O. Box 21668, Juneau, AK 99802.

• *Hand Delivery to the Federal Building:* 709 West 9th Street, Room 420A, Juneau, AK.

No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Electronic copies of this rule, the Regulatory Impact Review (RIR), and the categorical exclusion memorandum may be obtained from the Alaska Region Web site at *http://alaskafisheries.noaa.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS Alaska, Sustainable Fisheries Division, e-mailed to *OIRA_Submission@omb.eop.gov,* or faxed to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries in the Exclusive Economic Zone of the Bering Sea and Aleutian Islands Management Area under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The North Pacific Fishery Management Council (Council) prepared the FMP under the Magnuson-Stevens Act. Regulations implementing the FMP appear at subpart F of 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

Background

In October 1998, Congress enacted the American Fisheries Act (AFA), 16 U.S.C. 1851 note, which "rationalized" the Bering Sea pollock fishery by identifying the vessels and processors eligible to participate in the fishery and allocating pollock among those eligible participants. The AFA allocates 10 percent of the Bering Sea pollock total allowable catch to the Western Alaska Community Development Quota (CDQ) Program. After subtracting the CDQ Program allocation, and an amount set aside for the catch of pollock in other Bering Sea fisheries, the AFA allocates the remaining available pollock quota (the "directed fishing allowance") among the AFA inshore sector (50 percent), the AFA catcher/processor sector (40 percent), and the AFA mothership sector (10 percent).

The AFA allowed for development of pollock fishing cooperatives in the non-CDQ sectors. Thirteen cooperatives were developed as a result of the AFA: Ten inshore catcher vessel cooperatives, two offshore catcher/processor cooperatives, and one mothership cooperative. The cooperatives further subdivide each cooperative's pollock allocation among vessel owners in the cooperative through private contractual agreements. The cooperatives manage these allocations to optimize their harvest and to ensure that individual vessels and companies do not harvest more than their agreed upon share of pollock. The cooperatives also enforce contract provisions and participate in an intercooperative agreement to reduce salmon bycatch by the directed pollock fishery.

The regulations establishing the AFA cooperative reporting requirements were first published in December 30, 2002 (67 FR 79692). These regulations require that each cooperative prepare preliminary and final annual reports describing the cooperative's harvest of pollock, prohibited species, and non-pollock groundfish, including species for which NMFS establishes annual sideboards that limit incidental catch by AFA participants. The purpose of the annual reports is, "to assist the Council and NMFS in meeting the requirements of section 210(a)(1) of the AFA, which requires that NMFS make that information available to the public in a manner that NMFS and the Council decide is appropriate." 67 FR 79692. Another purpose of the cooperatives' AFA cooperative annual report is to provide the Council information upon which it can make decisions on cooperative allocations and sideboard protection measures.

Currently, all AFA cooperatives must submit both preliminary and final annual written reports on directed pollock fishing activity to the Council. The preliminary report is due on December 1, one month after the pollock fishery's closure on November 1, while the final report is due on April 1 of the following year. The two reports result from the Council's recognition that one month following the fishery's closure may not be enough time for the AFA cooperative representatives to compile all of the required information for the annual report. Requiring cooperatives to file a second report also allowed cooperatives to update catch and bycatch data after the end of the year.

In August 2010, NMFS changed the deadline for submission of the final AFA cooperative annual report from February 1 to April 1. (75 FR 53026) This new date allows the AFA cooperative report to arrive about the same time as the annual Chinook Salmon Prohibited Species Catch (PSC) Incentive Plan Agreement (IPA) and Non-chinook Salmon Inter-Cooperative Agreement (ICA) reports, which describe salmon PSC in the Bering Sea pollock fisheries.

In recent years, the Council has found that the preliminary AFA cooperative report is not necessary to develop recommendations on final groundfish specifications or on cooperative allocations and sideboard protection measures. The Council instead uses the stock assessment reports provided by the Council's Groundfish BSAI Plan Team, and the total allowable catch (TAC) recommendations provided at the December Council meeting to develop these recommendations.

The Stock Assessment and Fishery Evaluation (SAFE) reports for the groundfish fisheries managed by the Council are compiled by the respective Plan Teams from chapters contributed by scientists at the NMFS Alaska Fisheries Science Center and the State of Alaska Department of Fish and Game. These SAFE reports include separate stock assessment and fishery evaluation sections. The stock assessment section includes recommended acceptable biological catch (ABC) levels for each stock and stock complex managed under the FMP. For purposes of determining TACs, the data provided in these reports is a sufficient substitute for that which is provided by the preliminary reports on the pollock fishery from the cooperatives. The Council considers the ABC recommendations, together with social and economic factors, in determining TACs and other management strategies for the fisheries.

Therefore, at its June 2010 meeting, the Council determined that, combined with the SAFE Report and TAC recommendations, a single annual report from each AFA cooperative, renamed the "annual AFA cooperative report," will provide sufficient information to the Council, the industry and the public about the directed fisheries for pollock in the Bering Sea. If this proposed rule is enacted, the cooperatives will be required to submit one report containing the same

information previously contained in two reports.

Each AFA cooperative annual report would be required to provide the following information:

- How the cooperative allocated pollock, other groundfish species, and prohibited species catch among the vessels in the cooperative;
- The catch and discard of these species by area for each vessel in the cooperative;
- How the cooperative monitored fishing by its members; and
- A description of any actions taken by the cooperative to penalize any vessel that exceeded the allocations made to the vessel by the cooperative.

This action does not result in a substantial change in the reporting requirements. Some decrease in miscellaneous costs might occur due to postage cost differences. It is also possible that the burden would decrease due to planning and writing of one report instead of two reports, one revising the other.

Classification

Pursuant to Section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator for Fisheries has determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The basis of this certification is as follows.

The purpose of this proposed regulatory change is to remove a preliminary reporting requirement for pollock fishery cooperatives. These preliminary fishery reports are no longer necessary, and NMFS can obtain the same information from other reports and from a single annual report from the regulated cooperatives. The proposed action will not increase any of the costs, which are small (*see* below), imposed by the current regulations, and is instead likely to reduce them.

Specifically, the impact of this action will be twofold: (1) Cooperatives will not be required to submit a preliminary report, as well as a final report, thereby reducing their preparation and filing costs; and (2) the Council will realize reduced administrative costs, since it will no longer have to receive and process a preliminary report as well as a final report. As noted above, if this rule is promulgated, entities will no longer be required to produce a preliminary report. The elimination of this requirement will impose no costs on any entity that previously produced these reports; rather, it will reduce their costs. Thus, this action has a net benefit to directly regulated entities.

There are thirteen entities that, under the current regulations, must file reports with NMFS. These entities are fishing cooperatives that developed as a result of the AFA: Ten inshore catcher vessel cooperatives, one cooperative for catcher vessels delivering to catcher/processors, two offshore cooperatives for catcher/processors, and one for catcher vessels delivering to motherships. Under the Small Business Administration's (SBA) regulations implementing the RFA, a small fishing business is defined as an entity that receives annual revenues of no more than $4 million. All of the fishing cooperatives currently subject to this rule have annual revenues of greater than $4 million, and therefore none of these cooperatives is a small entity as defined by SBA.

Moreover, this rule, if implemented, will reduce the costs to all entities affected by the rule. NMFS estimates that thirteen AFA cooperative reports are submitted per year. Each of these is required to submit an annual report. The total time required for a firm to prepare and file both its preliminary and final reports is estimated to be 12 hours for each respondent. Thus, at $75/hour, the total estimated cost for submitting both reports currently is $900. This action would permit some reduction in these costs, because the estimated burden for the annual report is 8 hours for a total estimated cost of $600. The estimated total savings would be $300, a rough estimate of the likely upper bound cost savings. The Council is estimated to incur $275 in costs for processing these preliminary reports. There would be some cost savings here, as well. Further analysis of the economic impact is found in the RIR, available at **ADDRESSES** above. The RIR describes the potential size, distribution, and magnitude of the economic impacts that this action may have on affected entities.

Based upon the above analysis, the proposed rule would not impose economic impacts on any of the affected entities. Accordingly, an initial regulatory flexibility analysis is not required, and none has been prepared.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), and which have been approved by the Office for Management and Budget (OMB) under OMB Control Number 0648–0401. Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

Public reporting burden per response is estimated to average 8 hours for an AFA preliminary annual report and 4 hours for an AFA final annual report. The AFA preliminary annual report would be removed with this action and the AFA final annual report would be renamed the AFA cooperative annual report, which is estimated to average 8 hours per response.

These estimates of public reporting burden include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information.

Send comments regarding this burden estimate or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (*see* **ADDRESSES**); e-mail to *OIRA_Submission@omb.eop.gov* or fax to 202–395–7285.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: December 15, 2010.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub L. 108–447.

2. In § 679.61, revise (f) introductory text, paragraph (f)(1), and paragraph (f)(2) introductory text to read as follows:

§ 679.61 Formation and operation of fishery cooperatives.

* * * * *

(f) Any fishery cooperative governed by this section must submit an annual

written report on fishing activity to the North Pacific Fishery Management Council, 605 West 4th Avenue, Suite 306, Anchorage, AK 99501. The Council will make copies of each report available to the public upon request.

(1) *What is the submission deadline?* The cooperative must submit the annual report by April 1 of each year. Annual reports must be postmarked or received by the submission deadline.

(2) *What information must be included?* The annual report must contain, at a minimum:

* * * * *

[FR Doc. 2010–31918 Filed 12–17–10; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 75, No. 243

Monday, December 20, 2010

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Madera County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Madera County Resource Advisory Committee will be meeting in North Fork, California on January 19th and January 26th 2011, and if necessary on February 2nd 2011. The purpose of these meetings will be to approve submitted proposals for funding as authorized under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 110–343) for expenditure of Payments to States Madera County Title II funds. The Madera County Resource Advisory Committee met on October 20th and on November 17th. The purposes of those meetings were to make decisions on how to accept and review project proposals for the next funding cycle.

DATES: The meetings will be held on January 19th and January 26th 2011, and if necessary on February 2nd, 2011, from 6:30 p.m. to 8:30 p.m. in North Fork, CA.

ADDRESSES: The meetings will be held at the Bass Lake Ranger District, 57003 Road 225, North Fork, California 93643. Send written comments to Julie Roberts, Madera County Resource Advisory Committee Coordinator, c/o Sierra National Forest, Bass Lake Ranger District, at the above address, or electronically to *jaroberts@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Julie Roberts, Madera County Resource Advisory Committee Coordinator, (559) 877–2218 ext. 3159.

SUPPLEMENTARY INFORMATION: The meetings are open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring Payments to States Madera County Title II project matters to the attention of the Committee may file written statements with the Committee staff before or after the meetings.

Dated: December 10, 2010.

Dave Martin,

District Ranger.

[FR Doc. 2010–31659 Filed 12–17–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

USDA Forest Service

Notice of Meeting; Siskiyou Resource Advisory Committee Meetings to Resume in January

SUMMARY: The Siskiyou County Resource Advisory Committee (RAC) will hold its first meeting in 2011 on January 17th.

DATES: The meeting will be held on January 17th, 2011 and will begin at 4 p.m.

ADDRESSES: The meeting will be held at the Klamath National Forest Supervisor's Office, Conference Room, 1312 Fairlane Road, Yreka, CA.

FOR FURTHER INFORMATION CONTACT: Kerry Greene, Committee Coordinator, USDA, Klamath National Forest, Supervisor's Office, 1312 Fairlane Road, Yreka, CA 96097. (530) 841–4484; E-MAIL *kggreene@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The agenda includes project updates and financial status, and presentation and review of new project proposals to be considered by the RAC. The meeting is open to the public. Opportunity for public comment will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: December 10, 2010.

Kelly Russell,

Deputy Forest Supervisor.

[FR Doc. 2010–31897 Filed 12–17–10; 8:45 am]

BILLING CODE 3410–11–P

ARCTIC RESEARCH COMMISSION

Meeting Notice

Notice is hereby given that the U.S. Arctic Research Commission will hold its 95th meeting in Anchorage, AK, on January 21, 2011. The business session, open to the public, will convene at 9 a.m.

The Agenda items include:

(1) Call to order and approval of the agenda.

(2) Approval of the minutes from the 94th meeting.

(3) Commissioners and staff reports.

(4) Discussion and presentations concerning Arctic research activities.

The focus of the meeting will be reports and updates on programs and research projects affecting the Arctic.

If you plan to attend this meeting, please notify us via the contact information below. Any person planning to attend who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission of those needs in advance of the meeting.

Contact Person for Further Information: John Farrell, Executive Director, U.S. Arctic Research Commission, 703–525–0111 or TDD 703–306–0090.

John Farrell,

Executive Director.

[FR Doc. 2010–31779 Filed 12–17–10; 8:45 am]

BILLING CODE 7555–01–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration (ITA).

Title: Commercial Service—Strategic User Satisfaction Surveys.

Form Number(s): ITA–4157P.

OMB Control Number: 0625–0262.

Type of Request: Regular submission.

Burden Hours: 375.

Number of Respondents: 1,500.

Average Hours per Response: 15 minutes.

Needs and Uses: The U.S. Commercial Service (CS) is mandated by Congress to help U.S. businesses, particularly small and medium-sized companies, export their products and services to global markets. Additionally, the CS plays a leading role in achieving the President's National Export Initiative and doubling exports within

five years. To achieve its mission, the CS provides U.S. businesses with a range of export assistance services and resources including export counseling from one of our domestic Export Assistance Centers, educational webinars and seminars, an export-focused Web site (*http://www.export.gov*), a trade-related help line (1–800–USA–TRAD(E)), international industry research, international business partner match-making services and basic due diligence services on potential international partners.

The CS relies on client feedback to guide the development of services to meet clients' needs and to improve the effectiveness of its export assistance services. The CS uses the two collection instruments ("U.S. Commercial Service Perception and Awareness Survey" and the "U.S. Commercial Service Customer Satisfaction Survey") to: (1) Assess our marketing and promotional activities; and (2) measure clients' overall satisfaction with the full array of services and experiences they have had with the CS on an annual basis.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Wendy L. Liberante, Phone (202) 395–3647.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Wendy Liberante, OMB Desk Officer, via the Internet at *Wendy_L._Liberante@omb.eop.gov,* or FAX number (202) 395–5167.

Dated: December 14, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–31831 Filed 12–17–10; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Vessel Monitoring System Requirement in the Pacific Coast Groundfish Fishery.

OMB Control Number: 0648–0573.

Form Number(s): NA.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 1,500.

Average Hours per Response: Installation/activation reports and exemption reports, 5 minutes; declaration reports, 4 minutes.

Burden Hours: 2,114.

Needs and Uses: This request is for a renewal of a currently approved information collection.

NOAA has established large-scale depth-based management areas, referred to as Groundfish Conservation Areas (GCAs), where groundfish fishing is prohibited or restricted. These areas were specifically designed to reduce the catch of species while allowing healthy fisheries to continue in areas and with gears where little incidental catch of overfished species is likely to occur. Because NOAA needs methods to effectively enforce area restrictions, certain commercial fishing vessels are required to install and use a vessel monitoring system (VMS) that automatically sends hourly position reports. Exemptions from the reporting requirement are available for inactive vessels or vessels fishing outside the monitored area. The vessels are also required to declare what gear will be used.

Affected Public: Business or other for-profit organizations.

Frequency: Every four years and on occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: December 14, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–31832 Filed 12–17–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 70–2010]

Foreign-Trade Zone 158—Vicksburg/Jackson, MI, Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Mississippi Foreign-Trade Zone, Inc. (grantee of FTZ 158), requesting authority to expand FTZ 158–Site 8 in Senatobia, Mississippi. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on December 14, 2010.

FTZ 158 was established by the Board on April 11, 1989 (Board Order 430, 54 FR 15480, 4/18/89), and expanded on October 23, 1994 (Board Order 707, 59 FR 54885, 11/2/94), and on March 8, 2005 (Board Order 1378, 70 FR 13449, 3/21/05). The zone currently consists of 17 sites (8,645 acres total): *Site 1* (353 acres)—Emmitte W. Haining Industrial Center, Warren County; *Site 2* (2,242 acres)—within the Jackson International Airport complex, Jackson; *Site 3* (1,286 acres)—Ceres Research and Industrial Interplex on I–20, Warren County; *Site 4* (230 acres)—Vicksburg Airport Industrial Park, Vicksburg; *Site 5* (544 acres)—Greater Jackson Industrial Center on I–55, south of Jackson in Hinds County; *Site 6* (559 acres)—Hawkins Field Industrial Park, south of I–220/U.S. 49 Interchange, Jackson; *Site 7* (350 acres)—Northwest Industrial Park, one mile north of I–220/U.S. 49 Interchange, north of Jackson in Hinds County; *Site 8* (39 acres)—within the Senatobia Industrial Park, located at the intersection of Shands Bottom Road and Scott Street Extension, adjacent to Interstate Highway 55, Senatobia; *Site 9* (64 acres, 3 parcels)—within the Greenville Industrial Park at 1265 Wasson Drive (17 acres), at 1945 N. Theobald Street (20 acres) and at 1795 N. Theobald Street (26 acres), Greenville; *Site 10* (989 acres, sunset 3/31/2012)—within the 1,479-acre Airport Industrial Park, located adjacent to the Tupelo Regional Airport, Tupelo; *Site 11* (277 acres, sunset 3/31/2012)—within the 403-acre South Green

Industrial complex located adjacent to U.S. Highway 45 and the Kansas City Southern Railroad and South Green Street, Tupelo; *Site 12* (5 acres, sunset 3/31/2012)—within the 36-acre South Green Extend Industrial Complex located along South Green Street immediately west of South Gloster Street (MS 145), Tupelo; *Site 13* (56 acres, sunset 3/31/2012)—within the 164-acre Tupelo Industrial Center located at the intersection of Eason Boulevard and the Burlington Northern Railroad, Tupelo; *Site 14* (128 acres, sunset 3/31/2012)—within the 990-acre Burlington Northern Industrial Park located along the Burlington Northern Railroad and U.S. Highway 78 (I–22) and MS Highway 178 interchange, City of Tupelo/Lee County; *Site 15* (699 acres, sunset 3/31/2012)—within the 1,315-acre Harry A. Martin North Lee Industrial Complex located at the intersection of U.S. Highway 45 and Pratts Road, City of Baldwyn/Lee County; *Site 16* (284 acres, sunset 3/31/2012)—within the 429-acre Turner Industrial Park located at the U.S. Highway 45 and MS Highway 145 interchange adjacent and south of the City of Saltillo; and, *Site 17* (540 acres, sunset 3/31/2012)—within the 1,066-acre Tupelo Lee Industrial Park South located at the U.S. Highway 45 and Brewer Road interchange south of the City of Verona.

The applicant is requesting authority to expand existing Site 8 to include an additional 345 acres within the Senatobia Industrial Park (new site total—384 acres). The expanded site will provide warehousing and distribution services to area businesses. No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is February 18, 2011. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to March 7, 2011.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: December 14, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–31877 Filed 12–17–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–825]

Polyethylene Terephthalate Film, Sheet and Strip From India: Extension of Time Limit for Preliminary Results of Countervailing Duty New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* December 20, 2010.

FOR FURTHER INFORMATION CONTACT: Elfi Blum, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0197.

Background

On March 2, 2010, the Department of Commerce (the Department) initiated a new shipper review under the countervailing duty order on polyethylene terephthalate film, sheet and strip from India for the period January 1, 2009, through December 31, 2009. *See Polyethylene Terephthalate Film, Sheet and Strip from India: Initiation of Antidumping Duty and Countervailing Duty New Shipper Reviews,* 75 FR 10758 (March 9, 2010). This new shipper review covers one producer and exporter of the subject merchandise to the United States: SRF Limited.

On August 27, 2010, the Department published a notice of extension for the preliminary results of this new shipper review until November 22, 2010. *See Polyethylene Terephthalate Film, Sheet and Strip From India: Extension of Time Limit for Preliminary Results of Countervailing Duty New Shipper Review,* 75 FR 52717 (August 27, 2010). On November 12, 2010, the Department published a notice in the **Federal Register** to further extend the deadline for the preliminary results to December 14, 2010. *See Polyethylene Terephthalate Film, Sheet, and Strip From India: Extension of Time Limit for Preliminary Results of Countervailing Duty New Shipper Review,* 75 FR 69400 (November 12, 2010).

Extension of Time Limit for the Preliminary Results

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), and section 351.214(i)(1) of the Department's regulations require the Department to issue the preliminary results of a new shipper review within 180 days after the date on which the review was initiated, and the final results of the review within 90 days after the date on which the preliminary results were issued. However, if the Department concludes that a new shipper review is extraordinarily complicated, section 751(a)(2)(B)(iv) of the Act and section 351.214(i)(2) of the Department's regulations allow the Department to extend the 180-day period to 300 days, and to extend the 90-day period to 150 days. In its August 27 and November 12, 2010, **Federal Register** publications the Department determined that this new shipper review is extraordinarily complicated because of issues pertaining to the *bona fides* of this new shipper and to certain programs not previously examined and evaluated under this order. Because this is an extraordinarily complicated new shipper review, we need further time to analyze fully the subsidy programs under review.

Therefore, the Department is further extending the deadline for completion of the preliminary results of this new shipper review by an additional 7 days. Accordingly, the deadline for the completion of these preliminary results is now no later than December 21, 2010.

This notice is issued and published pursuant to sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act.

Dated: December 14, 2010.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–31883 Filed 12–17–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Freshwater Crawfish Tail Meat From the People's Republic of China: Final Results of Antidumping Duty Administrative and New-Shipper Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On June 16, 2010, the Department of Commerce published the preliminary results of the administrative and new-shipper reviews of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). The reviews cover five exporters. The period of review is September 1, 2008, through August 31, 2009.

Based on our analysis of the comments received, we have made changes in the margin calculations for all companies. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of the Reviews."

DATES: Effective Date: December 20, 2010.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–0665 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 16, 2010, the Department of Commerce (the Department) published *Freshwater Crawfish Tail Meat From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative and New-Shipper Reviews,* 75 FR 34100 (June 16, 2010) (*Preliminary Results*), in the **Federal Register.** The administrative review covers Xiping Opeck Food Co., Ltd. (Xiping Opeck), Shanghai Ocean Flavor International Trading Co., Ltd. (Shanghai Ocean Flavor), China Kingdom (Beijing) Import & Export Co., Ltd. (China Kingdom), and Xuzhou Jinjiang Foodstuffs Co., Ltd. (Jinjiang). The new-shipper review covers Nanjing Gemsen International Co., Ltd. (Nanjing Gemsen). We invited interested parties to comment on the *Preliminary Results.*

On June 22, 2010, the Department placed export and wage-rate data on the record for comment following the recent decision in *Dorbest Limited et. al.* v. *United States,* 604 F.3d 1363 (CAFC 2010) (*Dorbest IV*), issued by the United States Court of Appeals for the Federal Circuit (CAFC) on May 14, 2010, regarding the Department's wage-rate methodology. On July 2, 2010, and July 15, 2010, Jinjiang submitted certain factual information with respect to the valuation of surrogate values (SVs). On July 3, 2010, Xiping Opeck, Shanghai Ocean Flavor, China Kingdom, and Nanjing Gemsen submitted additional factual information.

We received case briefs from Xiping Opeck, Shanghai Ocean Flavor, China Kingdom, Nanjing Gemsen, Jinjiang, and the petitioner, the Crawfish Processors Alliance. We received a rebuttal brief from the petitioner. Interested parties submitted comments regarding the June 22, 2010, wage-rate data in their case and rebuttal briefs. No interested party requested a hearing.

On July 16 and August 4, 2010, we placed additional information on the record concerning the valuation of wage rates and invited parties to comment. On August 11, 2010, the petitioner provided comments. On October 5, 2010, we placed on the record industry-specific labor-wage data and the wage-rate calculations and invited interested parties to comment. We did not receive any timely comments on the additional information.

On October 13, 2010, we extended the time limit for completion of the final results of these reviews from October 14, 2010, to December 13, 2010. *See Freshwater Crawfish Tail Meat From the People's Republic of China: Extension of the Final Results of Antidumping Duty Administrative and New-Shipper Reviews,* 75 FR 64249 (October 19, 2010).

The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by the antidumping duty order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or un-purged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof.

Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the HTSUS numbers for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by U.S. Customs and Border Protection (CBP) in 2000, and HTSUS numbers 0306.19.00.10 and 0306.29.00.00, which are reserved for fish and crustaceans in general. The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

Surrogate Country

In the *Preliminary Results,* we treated the PRC as a non-market-economy (NME) country and, therefore, we calculated normal value in accordance with section 773(c) of the Act. Also, we stated that we selected India [1] as the appropriate surrogate country to use in these reviews because it is a significant producer of merchandise comparable to subject merchandise and it is at a level of economic development comparable to the PRC, pursuant to section 773(c)(4) of the Act. *See Preliminary Results,* 75 FR at 34102. No interested party commented on our designation of the PRC as an NME country or the selection of India as the primary surrogate country. Therefore, for the final results of reviews, we have continued to treat the PRC as an NME country and have used the same primary surrogate country, India.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

In the *Preliminary Results,* we found that Xiping Opeck, Shanghai Ocean Flavor, China Kingdom, Jinjiang, and Nanjing Gemsen demonstrated their eligibility for separate-rate status. *See Preliminary Results,* 75 FR at 34102–

[1] We have selected India as the primary surrogate country in which to value all inputs with the exception of live crawfish, the primary input, and the by-product, crawfish scrap shell. *See Preliminary Results,* 75 FR at 34102, for a discussion regarding the valuation of live crawfish and the selection of Indonesia as the secondary surrogate country.

34103. We received no comments from interested parties regarding the separate-rate status of these companies. Therefore, in these final results of reviews, we continue to find that the evidence placed on the record of these reviews by Xiping Opeck, Shanghai Ocean Flavor, China Kingdom, Jinjiang, and Nanjing Gemsen demonstrates an absence of government control, both in law and in fact, with respect to these companies' exports of the subject merchandise. Thus, we have determined that Xiping Opeck, Shanghai Ocean Flavor, China Kingdom, Jinjiang, and Nanjing Gemsen are eligible to receive a separate rate.

Analysis of Comments Received

The issues raised in the case briefs in these reviews are addressed in the "Issues and Decision Memorandum" (Decision Memo) from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated concurrently with and hereby adopted by this notice. A list of the issues which the parties have raised and to which we have responded is in the Decision Memo and attached to this notice as an Appendix. The Decision Memo, which is a public document, is on file in the CRU of the main Department of Commerce building, Room 7046, and is accessible on the Web at *http://ia.ita.doc.gov/frn/index.html*. The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

We have revised the wage-rate methodology and the surrogate value for cold storage applicable to finished merchandise. For further details see the Decision Memo at Comments 1 and 2, respectively; *see also* Memorandum to the File entitled "Fresh Crawfish Tail Meat from the People's Republic of China: Surrogate-Factor Valuations for the Final Results," dated concurrently with this notice (Final SV Memo). Because of the changes identified above, the antidumping duty margin calculations for all reviewed companies have changed since publication of the *Preliminary Results.*

Wage-Rate Methodology

On May 14, 2010, the CAFC found in *Dorbest IV,* 604 F.3d at 1366, that the "{regression-based} method for calculating wage rates {as stipulated by 19 CFR 351.408(c)(3)} uses data not permitted by {the statutory requirements laid out in section 773 of the Act (*i.e.,* 19 U.S.C. 1677b(c))}* * *." The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. For these final results, however, we have calculated an hourly wage rate to use in valuing the respondents' reported labor input by averaging industry-specific earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise.

For the final results of these reviews, we are valuing labor using a simple-average industry-specific wage rate using earnings or wage data reported under Chapter 5B by the International Labor Organization (ILO). To achieve an industry-specific labor value, we relied on industry-specific labor data from the countries we determined to be both economically comparable to the PRC and significant producers of comparable merchandise. A full description of the industry-specific wage-rate calculation methodology is provided in the memorandum to the file entitled "Freshwater Crawfish Tail Meat from the People's Republic of China: Industry-Specific Wage-Rate Selection," dated October 5, 2010 (Wage-Calculation Memo). *See* Final SV Memo as well. The Department calculated a simple-average industry-specific wage rate of $1.38 for these final results. Specifically, for these reviews, the Department has calculated the wage rate using a simple average of the data provided to the ILO under Sub-Classification 15 of the ISIC–Revision 3 standard by countries determined to be both economically comparable to the PRC and significant producers of comparable merchandise. We find the two-digit description under ISIC–Revision 3 ("Manufacture of food products and beverages") to be the best available wage-rate SV on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise. Consequently, we averaged the ILO industry-specific wage-rate data or earnings data available from the following countries found to be economically comparable to the PRC and which are significant producers of comparable merchandise: Ecuador, Egypt, Indonesia, Jordan, Peru, Philippines, Thailand, and Ukraine. For further information on the calculation of the wage rate, see Wage-Calculation Memo. For the full discussion pertaining to this issue, see the Decision Memo at Comment 1.

Final Results of the Reviews

As a result of the administrative review, we determine that the following percentage weighted-average dumping margins exist for the period September 1, 2008, through August 31, 2009:

Company	Margin (percent)
Xiping Opeck Food Co., Ltd.	9.39
Shanghai Ocean Flavor International Trading Co., Ltd.	41.92
China Kingdom (Beijing) Import & Export Co., Ltd.	18.87
Xuzhou Jinjiang Foodstuffs Co., Ltd.	5.39

As a result of the new-shipper review, we determine that a weighted-average dumping margin of 12.37 percent exists for merchandise produced by Henan Baoshu Aquatic Products Co., Ltd. (Henan Baoshu), and exported by Nanjing Gemsen International Co., Ltd., for the period September 1, 2008, through August 31, 2009.[2]

Assessment

In accordance with 19 CFR 351.212(b)(1), we have calculated importer-specific (or customer-specific) assessment rates for merchandise subject to these reviews.

For these final results, we divided the total dumping margins (calculated as the difference between normal value and export price) for each of the respondents' importers or customers by the total number of kilograms the exporter sold to that importer or customer. We will direct CBP to assess the resulting per-kilogram dollar amount against each kilogram of merchandise in each of that importer's/customer's entries during the review period.

We intend to issue assessment instructions to CBP 15 days after the date of publication of these final results of reviews.

Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of these final results of these reviews for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by Xiping Opeck, Shanghai Ocean Flavor, China Kingdom, and Jinjiang and for subject merchandise produced by Henan Baoshu and exported by Nanjing Gemsen, the cash-deposit rate will be

[2] As we stated in the *Preliminary Results,* 75 FR at 34101, we determined that the sales of subject merchandise produced by Henan Baoshu and exported to the United States by Nanjing Gemsen during the period of review constitute *bona-fide* transactions subject to the new-shipper review.

the rate established in these final results of reviews, as listed above; [3] (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash-deposit rate will be PRC-wide rate of 223.01 percent; (4) for all non-PRC exporters of subject merchandise the cash-deposit rate will be the rate applicable to the PRC entity that supplied that exporter. These deposit requirements shall remain in effect until further notice.

Notifications

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: December 13, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

Appendix

1. Valuation of Labor.
2. Valuation of Cold Storage.
3. Valuation of Live Crawfish.
4. Filing of New Factual Information.

[FR Doc. 2010–31882 Filed 12–17–10; 8:45 am]

BILLING CODE 3510–DS–P

[3] For subject merchandise exported by Nanjing Gemsen but not produced by Henan Baoshu, the cash-deposit rate will be the PRC-wide rate.

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* December 20, 2010.

SUMMARY: The Department of Commerce ("Department") hereby publishes a list of scope rulings completed between April 1, 2010, and June 30, 2010. In conjunction with this list, the Department is also publishing a list of requests for scope rulings and anticircumvention determinations pending as of June 30, 2010. We intend to publish future lists after the close of the next calendar quarter.

FOR FURTHER INFORMATION CONTACT: Julia Hancock, AD/CVD Operations, China/NME Group, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* 202–482–1394.

SUPPLEMENTARY INFORMATION:

Background

The Department's regulations provide that the Secretary will publish in the **Federal Register** a list of scope rulings on a quarterly basis. *See* 19 CFR 351.225(o). Our most recent notification of scope rulings was published on August 25, 2010. *See Notice of Scope Rulings,* 75 FR 52311 (August 25, 2010). This current notice covers all scope rulings and anticircumvention determinations completed by Import Administration between April 1, 2010, and June 30, 2010, inclusive, and it also lists any scope or anticircumvention inquiries pending as of June 30, 2010. As described below, subsequent lists will follow after the close of each calendar quarter.

Scope Rulings Completed Between April 1, 2010, and June 30, 2010:

People's Republic of China

A–570–502: Iron Construction Castings From the People's Republic of China

Requestor: National Diversified Sales; its grates and frames are outside the scope of the antidumping duty order; April 16, 2010.

A–570–891: Hand Trucks From the People's Republic of China

Requestor: PelRay International LLC; its Janitor Cart, Large Dinner Trolleys (model nos. D–012 and D–012A) and Small Dinner Trolleys (model nos. D–013 and D–013A) are outside the scope of the antidumping duty order; April 12, 2010.

A–570–891: Hand Trucks From the People's Republic of China

Requestor: Northern Tool & Equipment Co.; its high-axle torch cart (item #164771) is outside the scope of the antidumping duty order; June 1, 2010.

A–570–899: Artist Canvas From the People's Republic of China

Requestor: Wuxi Phoenix Artist Materials Co., Ltd.; its framed artist canvas is not within the scope of the antidumping duty order; May 13, 2010.

A–570–909: Steel Nails From the People's Republic of China

Requestor: Itochu Building Products; its plastic cap steel nails are within the scope of the antidumping duty order; May 12, 2010.

A–570–941/C–570–942: Kitchen Appliance Shelving and Racks From the People's Republic of China

Requestor: Custom BioGenic Systems, Inc.; its inventory control racks are outside the scope of the antidumping duty and countervailing orders; April 1, 2010.

A–570–918: Steel Wire Garment Hangers From the People's Republic of China

Requestor: Target Corporation; its chrome-plated accessory hangers are outside the scope of the antidumping duty order; May 12, 2010.

Germany

A–428–801: Ball Bearings and Parts Thereof From Germany

Requestor: Schaeffler Group; its ball roller bearings are within the scope of the antidumping duty order; May 11, 2010.

Anticircumvention Determinations Completed Between April 1, 2010, and June 30, 2010: None.

Scope Inquiries Terminated Between April 1, 2010, and June 30, 2010: None.

Anticircumvention Inquiries Terminated Between April 1, 2010, and June 30, 2010: None.

Scope Inquiries Pending as of June 30, 2010:

Germany

A–428–801: Ball Bearings and Parts From Germany

Requestor: Myonic GmbH; whether its turbocharger spindle units are within the scope of the antidumping duty order; requested January 11, 2010; initiated April 16, 2010.

People's Republic of China

A–570–504: Petroleum Wax Candles From the People's Republic of China

Requestor: Trade Associates Group, Ltd.; whether its candles (multiple designs) are within the scope of the antidumping duty order; requested June 11, 2009.

A–570–504: Petroleum Wax Candles From the People's Republic of China

Requestor: Sourcing International, LLC; whether its flower candles are within the scope of the antidumping duty order; requested June 24, 2009.

A–570–504: Petroleum Wax Candles From the People's Republic of China

Requestor: Sourcing International; whether its candles (multiple designs) are within the scope of the antidumping duty order; requested July 28, 2009.

A–570–504: Petroleum Wax Candles From the People's Republic of China

Requestor: Sourcing International; whether its floral bouquet candles are within the scope of the antidumping duty order; requested August 25, 2009.

A–570–504: Petroleum Wax Candles From the People's Republic of China

Requestor: Candym Enterprises Ltd.; whether its vegetable candles are within the scope of the antidumping duty order; requested November 9, 2009.

A–570–601: Tapered Roller Bearings From the People's Republic of China

Requestor: Blackstone OTR LLC and OTR Wheel Engineering, Inc.; whether its wheel hub assemblies are within the scope of the antidumping duty order; requested March 3, 2010.

A–570–601: Tapered Roller Bearings From the People's Republic of China

Requestor: New Trend Engineering Ltd.; whether certain of its wheel hub assemblies are within the scope of the antidumping duty order; requested March 5, 2010.

A–570–806: Silicon Metal From the People's Republic of China

Requestor: Globe Metallurgical Inc.; whether certain silicon metal exported by Ferro-Alliages et Mineraux to the United States from Canada is within the scope of the antidumping duty order; requested October 1, 2008.

A–570–827: Cased Pencils From the People's Republic of China

Requestor: Inspired Design LLC; whether its pedestal pets are within the scope of the antidumping duty order; requested March 4, 2010.

A–570–864: Pure Magnesium in Granular Form From the People's Republic of China

Requestor: ESM Group Inc.; whether atomized ingots are within the scope of the antidumping duty order; requested April 11, 2006; initiated April 18, 2007; preliminary ruling issued August 27, 2008.

A–570–868: Folding Metal Tables and Chairs From the People's Republic of China

Requestor: Academy Sports & Outdoors; whether its bistro sets, consisting of two chairs and a table, are outside the scope of the antidumping duty order; requested January 11, 2010; initiated March 18, 2010.

A–570–890: Wooden Bedroom Furniture From the People's Republic of China

Requestor: Target Corporation; whether its kid's accent table is within the scope of the antidumping duty order; requested March 18, 2010.

A–570–890: Wooden Bedroom Furniture From the People's Republic of China

Requestor: Legacy Classic Furniture; whether its heritage court bench is within the scope of the antidumping duty order; requested June 16, 2010.

A–570–899: Artist Canvas From the People's Republic of China

Requestor: Masterpiece Artist Canvas; whether its scrapbooking canvas is within the scope of the antidumping duty order; requested March 20, 2010.

A–570–909: Steel Nails From the People's Republic of China

Requestor: Target Corporation; whether its tool kit is within the scope of the antidumping duty order; requested December 11, 2009.

A–570–922/C–570–923: Raw Flexible Magnets From the People's Republic of China

Requestor: InterDesign; whether its raw flexible magnets are within the scope of the antidumping duty and countervailing duty orders; requested March 26, 2010; initiated May 18, 2010.

A–570–922/C–570–923: Raw Flexible Magnets From the People's Republic of China

Requestor: Medical Action Industries, Inc.; whether its raw flexible magnets and a surgical instrument drape are within the scope of the antidumping duty and countervailing duty orders; requested June 14, 2010.

A–570–932: Steel Threaded Rod From the People's Republic of China

Requestor: Elgin Fastener Group; whether its cold headed double threaded ended bolt is within the scope of the antidumping duty order; requested November 4, 2009.

Multiple Countries

A–533–838/C–533–839/A–570–892: Carbazole Violet Pigment 23 From India and the People's Republic of China

Requestor: Nation Ford Chemical Co., and Sun Chemical Corp.; whether finished carbazole violet pigment exported from Japan is within the scope of the antidumping duty and countervailing duty orders; requested February 23, 2010.

Anticircumvention Rulings Pending as of June 30, 2010:

A–570–849: Certain Cut-to-Length Carbon Steel From the People's Republic of China

Requestor: ArcelorMittal USA, Inc.; Nucor Corporation; SSAB N.A.D., Evraz Claymont Steel and Evraz Oregon Steel Mills; whether certain cut-to-length carbon steel plate from the People's Republic of China that contains a small level of boron, involves such a minor alteration to the merchandise that is so insignificant that the plate is circumventing the antidumping duty order; requested February 17, 2010; initiated April 16, 2010.

A–570–894: Certain Tissue Paper Products From the People's Republic of China

Requestor: Seaman Paper Company of Massachusetts, Inc.; whether certain imports of tissue paper from the Socialist Republic of Vietnam are circumventing the antidumping duty order; requested February 18, 2010; initiated April 5, 2010.

A–570–928: Uncovered Innerspring Units From the People's Republic of China

Requestor: Leggett & Platt, Incorporated; whether coils (including individual coils, coil strips, and other made-up articles of innersprings units) and border rods from the People's Republic of China, which are assembled post-importation into innerspring units in the United States, are circumventing the antidumping duty order; requested March 15, 2010.

Interested parties are invited to comment on the completeness of this list of pending scope and anticircumvention inquiries. Any comments should be submitted to the Deputy Assistant Secretary for AD/CVD

Operations, Import Administration, International Trade Administration, 14th Street and Constitution Avenue, NW., APO/Dockets Unit, Room 1870, Washington, DC 20230.

This notice is published in accordance with 19 CFR 351.225(o).

Dated: November 1, 2010.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–31876 Filed 12–17–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Harvest of Pacific Halibut by Guided Sport Charter Vessel Anglers off Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 18, 2011.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patsy A. Bearden, (907) 586–7008 or *Patsy.Bearden@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for renewal of a currently approved information collection.

Pacific halibut is an unusual resource in that halibut management in both State and Federal waters is an international and Federal responsibility under the North Pacific Halibut Act of 1982. Annual catch quotas are determined by the International Pacific Halibut Commission (IPHC), and Federal responsibility for halibut management extends to halibut stocks and fishing activity within State of Alaska waters. In order to manage halibut effectively, international and Federal managers need information on halibut fishing effort and harvest by all user groups, including the guided sport charter sector of the fishery.

In order to minimize the recordkeeping and reporting burden on guided charter operations, Federal and international managers depend on fishing activity and harvest information collected by the State of Alaska through its charter logbook program. Federal regulations at 50 CFR 300.65 require charter vessel operators fishing in IPHC Areas 2C and 3A to comply with the State of Alaska logbook reporting requirements.

The State of Alaska Department of Fish and Game (ADF&G) Division of Sport Fish initiated a mandatory logbook program for charter vessels in 1998 requiring annual registration of sport fishing guides and businesses and logbook reporting. The logbook and registration program was intended to provide information on actual participation and harvest by individual charter vessels and businesses in various regions of the State.

ADF&G issues charter logbooks to licensed businesses only and also provides operators with registration stickers and statistical area maps. A schedule of logbook due dates is printed inside the front cover of each logbook.

NMFS and ADF&G coordinated closely in the development of this information collection to use the existing ADF&G logbook to record information necessary for the monitoring and enforcement of the charter vessel angler daily catch limit of halibut, so that a separate Federal logbook system would not be necessary. This approach reduces burden to both the charter vessel industry and Federal and State management agencies.

II. Method of Collection

The logsheets may be placed in an ADF&G drop box at one of many ports in Alaska or mailed to ADF&G.

III. Data

OMB Control Number: 0648–0575.

Form Number: None.

Type of Review: Regular submission (renewal of a currently approved collection).

Affected Public: Business or other for-profit organizations; individual or households.

Estimated Number of Respondents: 93,090.

Estimated Time Per Response: Charter Guide to record required information in logsheet, 4 minutes; Charter Anglers to verify information and sign logsheet, 1 minute.

Estimated Total Annual Burden Hours: 3,134.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 14, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010–31833 Filed 12–17–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA095

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of the Shrimp Advisory Panel.

DATES: The Shrimp Advisory Panel meeting is scheduled to begin at 8:30 a.m. on Wednesday, January 12, 2011, and end by 2 p.m.

ADDRESSES: The meeting will be held at the Crowne Plaza, 2829 Williams Blvd., Kenner, LA 70062.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Deputy Executive Director; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The Shrimp Advisory Panel will receive a presentation of the Biological Review of the 2010 Texas Closure and a change in yield report. The Shrimp Advisory Panel will then consider recommendations for a 2011 closure. The Shrimp Advisory Panel will also receive presentations of the Status and Health of Shrimp Stocks in 2009 and a Stock Assessment Report for 2009. Finally, the Shrimp Advisory Panel will review preliminary effort estimates for 2010 and possibly make recommendations for the Council.

Although other non-emergency issues not on the agenda may come before the Shrimp Advisory Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions of the Shrimp Advisory Panel will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling (813) 348–1630.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Trish Kennedy at the Council (*see* **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: December 15, 2010.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–31869 Filed 12–17–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XN34

Taking and Importing Marine Mammals; Navy Training Activities Conducted Within the Northwest Training Range Complex (NWTRC) and Military Training Activities and Research, Development, Testing and Evaluation Conducted Within the Mariana Islands Range Complex (MIRC)

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice; issuance of letters of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) and implementing regulations, notification is hereby given that two 1-year letters of authorization (LOA) have been issued to the U.S Navy (Navy) for the incidental take of marine mammals during: Navy activities within the NWTRC, off the coasts of Washington, Oregon, and northern California, for the period of October 2010 through October 2011, and; Navy activities conducted in the Mariana Islands Range Complex (MIRC) study area for the period of July 2010 through July 2011. These activities are considered military readiness activities pursuant to the Marine Mammal Protection Act (MMPA), as amended by the National Defense Authorization Act of 2004 (NDAA).

DATES: The NWTRC LOA is effective November 12, 2010, through November 11, 2011, and the MIRC LOA is effective August 12, 2010 through August 11, 2011.

ADDRESSES: The LOAs and supporting documentation are available by writing to Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, by telephoning one of the contacts listed here (**FOR FURTHER INFORMATION CONTACT**), or online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, Office of Protected Resources, NMFS, (301) 713–2289, ext. 166.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) during periods of not more than five consecutive years each if certain findings are made and regulations are issued or, if the taking is limited to harassment and of no more than one year, the Secretary shall issue a notice of proposed authorization for public review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as:

> an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The NDAA (Pub. L. 108–136) removed the "small numbers" and "specified geographical region" limitations and amended the definition of "harassment" as it applies to a "military readiness activity" to read as follows (Section 3(18)(B) of the MMPA):

> (i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of Requests

NWTRC

In September 2008, NMFS received an application from the Navy requesting authorization for the take of individuals of 26 species of marine mammals incidental to upcoming Navy training activities to be conducted within the NWTRC, which extends west to 250 nautical miles (nm) (463 kilometers [km]) beyond the coast of Northern California, Oregon, and Washington and east to Idaho and encompasses 122,400 nm^2 (420,163 km^2) of surface/subsurface ocean operating areas. These training activities are military readiness activities under the provisions of the NDAA. These activities are classified as

military readiness activities. These activities may incidentally take marine mammals present within the NWTRC Study Area by exposing them to sound from mid-frequency or high frequency active sonar (MFAS/HFAS) or to underwater detonations at levels that NMFS associates with the take of marine mammals. The Navy's model, which did not factor in any potential benefits of mitigation measures, predicted that 13 individual marine mammals would be exposed to levels of sound or pressure that would result in injury; thus, NMFS is authorizing the take of 13 individuals per year by Level A Harassment. However, NMFS and the Navy have determined that injury can most likely be avoided through the implementation of the required mitigation measures. No mortality of marine mammals is anticipated or authorized incidental to naval exercises in the NWTRC.

MIRC

In August 2008, NMFS received an application from the Navy requesting authorization for the take of individuals of 26 species of marine mammals incidental to upcoming Department of Defense (including Navy, USMC, and USAF) training and research, development, testing, and evaluation (RDT&E) activities to be conducted within the MIRC study area, which encompasses a 501,873-square-nautical mile (nm^2) area around the islands, including Guam, Tinian, Saipan, Rota, Farallon de Medinilla, and also includes ocean areas in both the Pacific Ocean and the Philippine Sea. These training activities are military readiness activities under the provisions of the NDAA. These military activities may incidentally take marine mammals present within the MIRC study area by exposing them to sound from mid-frequency or high frequency active sonar (MFAS/HFAS) or underwater detonations. After submitting supplemental applications, the Navy requested authorization to take individuals of 26 species of marine mammals by Level B Harassment, 2 individuals of 2 species by Level A Harassment annually, and 10 individual beaked whales by mortality over the course of the 5-year regulations. The Navy's model, which did not factor in any potential benefits of mitigation measures, predicted that 2 individual marine mammals would be exposed to levels of sound or pressure that would result in injury; thus, NMFS is authorizing the take, by Level A Harassment of 2 individuals per year. However, NMFS and the Navy have determined that injury can most likely be avoided through the implementation of the Navy's proposed mitigation measures. Further, although it does not anticipate that it will occur, the Navy requested, and NMFS is authorizing the take, by injury or mortality, of up to 10 beaked whales over the course of the 5-year regulations.

Authorizations

NWTRC

On November 10, 2010, NMFS' final rule governing the take of marine mammals incidental the Navy's activities in the NWTRC became effective. In accordance with the final rule, NMFS issued an LOA to the Navy on November 12, 2010, authorizing harassment of individuals or 26 species of marine mammals incidental to U.S. Navy training activities in the NWTRC. Issuance of this LOA is based on findings, described in the preamble to the final rule (75 FR 69296, November 10, 2010), that the taking resulting from the activities described in this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses. The LOA describes the permissible methods of taking and includes requirements pertaining to the mitigation, monitoring and reporting of such taking.

MIRC

On August 3, 2010, NMFS' final rule governing the take of marine mammals incidental the Navy's activities in the MIRC became effective. In accordance with the final rule, NMFS issued an LOA to the Navy on August 12, 2010, authorizing harassment of individuals of 26 species of marine mammals and mortality of 10 individual beaked whales incidental to U.S. military training and RDT&E activities in the MIRC Study Area (as noted above, mortality of beaked whales may not exceed 10 individuals in the five years covered by the regulations). Issuance of this LOA is based on findings, described in the preamble to the final rule (75 FR 45527, August 3, 2010), that the taking resulting from the activities described in this LOA will have a negligible impact on marine mammal stocks and will not have an unmitigable adverse impact on the availability of the affected marine mammal stock for subsistence uses. The LOA describes the permissible methods of taking and includes requirements pertaining to the mitigation, monitoring and reporting of such taking.

Dated: December 13, 2010.

Jolie Harrison,

Acting Chief, Permits, Conservation, and Recreation, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–31920 Filed 12–17–10; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instruments [if any].

DATES: Comments must be submitted on or before [30 days after publication].

FOR FURTHER INFORMATION OR A COPY CONTACT: John P. Dolan at (202) 418–5220; FAX: (202) 418–5524; *e-mail: mailto: jdolan@cftc.gov, lmauldin@cftc.gov* and refer to OMB Control No. 3038–0025.

SUPPLEMENTARY INFORMATION:

Title: Practice by Former Members and Employees of the Commission (OMB Control No. 3038–0025). This is a request for extension of a currently approved information collection.

Abstract: Commission Rule 140.735–6 governs the practice before the Commission of former members and employees of the Commission and is intended to ensure that the Commission is aware of any existing conflict of interest. The rule generally requires former members and employees who are employed or retained to represent any person before the Commission within two years of the termination of their CFTC employment to file a brief written statement with the Commission's Office of General Counsel. The proposed rule was promulgated pursuant to the Commission's rulemaking authority contained in Section 8a(5) of the Commodity Exchange Act, 7 U.S.C. 12a(5) (1994), as amended.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control

numbers for the CFTC's regulations were published on December 30, 1981. *See* 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on August 14, 2007 (72 FR 45420).

Burden statement: The respondent burden for this collection is estimated to average .10 hours per response to file the brief written statement. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 3.

Estimated number of responses: 4.5.

Estimated total annual burden on respondents: .10 hours.

Frequency of collection: On occasion.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038–0025 in any correspondence.

John P. Dolan, Office of General Counsel, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581 and Office of Information and Regulatory Affairs, Office of Management and Budget, *Attention:* Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

Dated: December 15, 2010.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 2010–31900 Filed 12–17–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Uniform Formulary Beneficiary Advisory Panel

AGENCY: Assistant Secretary of Defense (Health Affairs), DoD.

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (Title 5, United States Code (U.S.C.), Appendix, as amended) and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) the Department of Defense announces the following Federal Advisory Committee Meeting of the Uniform Formulary Beneficiary Advisory Panel (hereafter referred to as the Panel).

DATES: January 6, 2011, from 9 a.m.–12 p.m.

ADDRESSES: Naval Heritage Center Theater, 701 Pennsylvania Avenue, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Stacia Spridgen, Designated Federal Officer, Uniform Formulary Beneficiary Advisory Panel 2450 Stanley Road, Suite 208, Ft. Sam Houston, TX 78234–6102, Telephone: (210) 295–127, Fax: (210) 295–2789, E-mail Address: *Baprequests@tma.osd.mil.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: The Panel will review and comment on recommendations made to the Director, TRICARE Management Activity, by the Pharmacy and Therapeutics Committee regarding the Uniform Formulary.

Meeting Agenda:

1. Sign-In.
2. Welcome and Opening Remarks.
3. Public Citizen Comments.
4. Scheduled Therapeutic Class Reviews (Comments will follow each agenda item).

a. Non-Insulin Anti-Diabetic Drugs.

b. Designated Newly Approved Drugs in Already-Reviewed Classes.

c. Pertinent Utilization Management Issues.

d. Drugs Recommended for Non-Formulary Placement Due to Non-Compliance with the National Defense Authorization Act for Fiscal Year 2008, Section 703.

5. Panel Discussions and Vote.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and Title 41, Code of Federal Regulations (CFR), 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and will be provided only to the first 220 people signing-in. All persons must sign-in legibly.

Administrative Work Meeting: Prior to the public meeting, the Panel will conduct an Administrative Work Meeting from 8 a.m. to 9 a.m. to discuss administrative matters of the Panel. The Administrative Work Meeting will be held at the Naval Heritage Center, 701 Pennsylvania Avenue, NW., Washington, DC, 20004. Pursuant to 41 CFR 102–3.160, the Administrative Work Meeting will be closed to the public.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Panel at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Panel's Designated Federal Officer (DFO). The DFO's contact information can be obtained from the General Services Administration's Federal Advisory Committee Act Database—*https://www.fido.gov/facadatabase/public.asp.*

Written statements that do not pertain to the scheduled meeting of the Panel may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The DFO will review all submitted written statements and provide copies to all the committee members.

Public Comments: In addition to written statements, the Panel will set aside one hour for individuals or interested groups to address the Panel. To ensure consideration of their comments, individuals and interested groups should submit written statements as outlined in this notice; but if they still want to address the Panel, then they will be afforded the opportunity to register to address the Panel. The Panel's DFO will have a "Sign-Up Roster" available at the Panel meeting, for registration on a first-come, first-serve basis. Those wishing to address the Panel will be given no more than five minutes to present their comments, and at the end of the one-hour time period, no further public comments will be accepted. Anyone who signs up to address the Panel, but is unable to do so due to the time limitation, may submit comments in writing; however, he or she must understand that written comments may not be reviewed prior to the Panel's deliberation. Accordingly, the Panel recommends that individuals and interested groups consider submitting written statements instead of addressing the Panel.

Dated: December 14, 2010.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–31791 Filed 12–17–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Closed Meeting of the Department of Defense Wage Committee

AGENCY: Department of Defense.

ACTION: Notice of closed meetings.

SUMMARY: Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held.

DATES: January 11, 2011, and Tuesday, January 25, 2011, at 10 a.m.

ADDRESSES: 1400 Key Boulevard, Level A, Room A101, Rosslyn, Virginia.

FOR FURTHER INFORMATION CONTACT: Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

SUPPLEMENTARY INFORMATION: Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meeting meets the criteria to closed meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: December 14, 2010.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–31790 Filed 12–17–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2010–OS–0167]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to Alter a System of Records

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action would be effective without further notice on January 19, 2011 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and/ Regulatory Information Number (RIN) and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.*Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, Room 3C843, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155, or Ms. Cindy Allard at (703) 588–6830.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the **FOR FURTHER INFORMATION CONTACT** address above. The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on December 10, 2010, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 10, 2010.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DHA 12

SYSTEM NAME:

Third Party Collection System (March 29, 2005, 70 FR 15847).

CHANGES:

SYSTEM LOCATION:

Delete entry and replace with "Defense Health Services Systems, Suite 1599, 5203 Leesburg Pike, Falls Church, VA 22041–3891."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with "Members of the uniformed services (and their dependents) and retired military members (and their dependents) who receive or have received health services approved by the Department of Defense, contractors participating in military deployments or related operations who receive or have received medical or dental care at a military treatment facility, Department of Defense civilian employees (to include non-appropriated fund employees) who receive or have received medical or dental care at a military treatment facility, and other individuals who receive or have received medical or dental care at a military treatment facility."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with "Individual Data: This includes patient name, Social Security Number (SSN)(or foreign identification), whether treatment was outpatient or inpatient, outpatient visit date and time, date of birth, mailing address, home telephone number, family member prefix, and relationship to policy holder; sponsor or insurance policy holder name, Social Security Number (SSN), and date of birth; other covered family member name(s), Social Security Number (SSN), and date(s) of birth; and, if applicable, Medicare and Medicaid coverage data.

INSURANCE POLICY INFORMATION DATA:

This includes policy number or identification, card holder identification, group number, group name, enrollment plan/code, policy effective date, policy category, policy end date, insurance company name, address and telephone number, insurance type, policy holder, whether policy holder is insured through their employer, and drug coverage data regarding authority to bill for pharmaceuticals.

EMPLOYER INFORMATION DATA:

This includes employer name, address, and telephone number.

BILLING INFORMATION DATA:

This includes bill type (military treatment facility, clinic, pharmacy, laboratory/radiology, ambulance), name and location of military treatment facility, whether treatment was outpatient or inpatient, outpatient visit date and time, inpatient admission and discharge dates and time, patient identification number, patient name, provider code/description, office visit code description, Medical Expense and Performance Reporting System code/description, diagnosis code/description, billing amount, user who created the bill, date bill was created, and status of bill and source of billing data.

ACCOUNTING INFORMATION DATA:

This includes control number, transaction code, debit amount, credit amount, check number, Batch posting number, balance, patient identification, patient name, encounter date, comments, entry date and follow-up date.

INSURANCE COMPANY DATA:

This contains tables for insurance company, policy, provider, fees, codes, rates, and procedure maintenance."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with "10 U.S.C. 1095, Health care services incurred on behalf of covered beneficiaries: collection from third-party payers; 10 U.S.C. 1079b, Procedures for charging fees for care provided to civilians; retention and use of fees collected; 42 U.S.C. Chapter 32, "Third Party Liability For Hospital and Medical Care;" 28 CFR Part 43, "Recovery of Costs of Hospital and Medical Care and Treatment Furnished by the United States;" 45 CFR parts 160 and 164, Health and Human Services, General Administrative Requirements and Security & Privacy; 32 CFR part 220, Collection from Third Party Payers of Reasonable Charges for Healthcare Services; DoD 6010.15–M, Chapter 3, Medical Services Account; and E.O. 9397 (SSN), as amended."

PURPOSE(S):

Delete entry and replace with "To establish a standard patient accounting system for health care billing practices. It shall assist military treatment facilities in the collection, tracking, and reporting of data required for the Department of Defense Third Party Collection Program billing process by the adoption of standard commercial medical coding and billing practices to military treatment facilities.

The Defense Finance Accounting Service (DFAS) uses this information to bill person(s) or organization(s) liable for payment on behalf those receiving care at a military treatment facility."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with "In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records may specifically be disclosed outside the Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To interface with all commercial insurance carriers and parties against whom recovery has been sought by the Department of Defense Military Health System, as well as all parties involved in support of the collection activities for health care approved by the Department of Defense.

To the National Data Clearinghouse, an electronic healthcare clearinghouse, for purposes of converting the data to an industry-wide format prior to forwarding the billing information to the insurance companies for payment.

The DoD 'Blanket Routine Uses' set forth at the beginning of Office of the Secretary of Defense's compilation of systems of records notices apply to this system.

Note 1: This system of records contains individually identifiable health information. The Department of Defense Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond what is found in the Privacy Act of 1974 or mentioned in this system of records notice.

Note 2: Personal identity, diagnosis, prognosis or treatment information of any patient maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States is, except as per 42 U.S.C. 290dd–2, treated as confidential and disclosed only for the purposes and under the circumstances expressly authorized under 42 U.S.C. 290dd–2."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete entry and replace with "Paper file folders and electronic storage media."

RETRIEVABILITY:

Delete entry and replace with "Records are retrieved by the sponsor or patient name, Social Security Number (SSN), Department of Defense Benefits Number, third party payer identification number assigned to individual, family member prefix (a two-digit code identifying the person's relationship to the Military Sponsor), and/or Patient Control Number."

SAFEGUARDS:

Delete entry and replace with "Physical access to system location restricted by cipher locks, visitor escort, access rosters, and photo identification. Adequate locks on doors and server components secured in a locked computer room with limited access. Each system end user device protected within a locked storage container, room, or building outside of normal business hours. All visitors and other persons that require access to facilities that house servers and other network devices supporting the system that do not have authorization for access escorted by appropriately screened/cleared personnel at all times.

Access to the system is role-based and a valid user account is required. The system provides two-factor authentication, using either a Common Access Card and Personal Identification Number or a unique logon identification and password. Where a unique logon identification and password is used, passwords must be renewed every sixty (60) days. Authorized personnel must have appropriate Information Assurance training, Health Insurance Portability and Accountability Act training, and Privacy Act of 1974 training."

RETENTION AND DISPOSAL:

Delete entry and replace with "Records are destroyed five years after the end of the year in which the record was closed."

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with "Program Manager, Defense Health Services Systems, Suite 1500, 5203 Leesburg Pike, Falls Church, VA 22041–3891."

NOTIFICATION PROCEDURE:

Delete entry and replace with "Individuals seeking to determine

whether this system contains information about themselves should address written inquires to the TRICARE Management Activity, Department of Defense, ATTN: TMA Privacy Officer, Suite 810, 5111 Leesburg Pike, Falls Church VA 22041–3206.

Request should contain participant's and/or sponsor's full name, their Social Security Number (SSN), and current address and telephone number and the names of the military treatment facility or facilities in which they have received medical treatment.

If requesting health information of a minor (or legally incompetent person), the request must be made by a custodial parent, legal guardian, or party acting in loco parentis of such individual(s). Written proof of the capacity of the requestor may be required."

RECORD ACCESS PROCEDURES:

Delete entry and replace with "Individuals seeking access to records about themselves contained in this system should address written inquiries to TRICARE Management Activity, Attention: Freedom of Information Act Requester Service Center, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

Requests should contain participant's and/or sponsor's full name, their Social Security Number (SSN), and current address and telephone number and the names of the military treatment facility or facilities in which they have received medical treatment.

If requesting health information of a minor (or legally incompetent person), the request must be made by a custodial parent, legal guardian, or party acting in loco parentis of such individual(s). Written proof of the capacity of the requestor may be required."

CONTESTING RECORD PROCEDURES:

Delete entry and replace with "The Office of the Secretary of Defense rules for accessing records, for contesting contents and appealing initial agency determinations are published in Office of the Secretary of Defense Administrative Instruction 81 (32 CFR part 311) or may be obtained from the system manager."

RECORD SOURCE CATEGORIES:

Delete entry and replace with "Information is obtained from an automated medical records system, the Composite Health Care System (specifically, the Ambulatory Data Module), which is automatically sent to the Third Party Collection System. Other information may be obtained from the AHLTA System and the Theater Data Medical Stores System."

* * * * *

DHA 12

SYSTEM NAME:

Third Party Collection System.

SYSTEM LOCATION:

Defense Health Services Systems, Suite 1599, 5203 Leesburg Pike, Falls Church, VA 22041–3891.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the uniformed services (and their dependents) and retired military members (and their dependents) who receive or have received health services approved by the Department of Defense, contractors participating in military deployments or related operations who receive or have received medical or dental care at a military treatment facility, Department of Defense civilian employees (to include non-appropriated fund employees) who receive or have received medical or dental care at a military treatment facility, and other individuals who receive or have received medical or dental care at a military treatment facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

INDIVIDUAL DATA:

This includes patient name, Social Security Number (SSN) (or foreign identification), whether treatment was outpatient or inpatient, outpatient visit date and time, date of birth, mailing address, home telephone number, family member prefix, and relationship to policy holder; sponsor or insurance policy holder name, Social Security Number (SSN), and date of birth; other covered family member name(s), Social Security Number (SSN), and date of birth; and, if applicable, Medicare and Medicaid coverage data.

INSURANCE POLICY INFORMATION DATA:

This includes policy number or identification, card holder identification, group number, group name, enrollment plan/code, policy effective date, policy category, policy end date, insurance company name, address and telephone number, insurance type, policy holder, whether policy holder is insured through their employer, and drug coverage data regarding authority to bill for pharmaceuticals.

EMPLOYER INFORMATION DATA:

This includes employer name, address, and telephone number.

BILLING INFORMATION DATA:

This includes bill type (military treatment facility, clinic, pharmacy, laboratory/radiology, ambulance), name and location of military treatment facility, whether treatment was outpatient or inpatient, outpatient visit date and time, inpatient admission and discharge dates and time, patient identification number, patient name, provider code/description, office visit code description, Medical Expense and Performance Reporting System code/description, diagnosis code/description, billing amount, user who created the bill, date bill was created, and status of bill and source of billing data.

ACCOUNTING INFORMATION DATA:

This includes control number, transaction code, debit amount, credit amount, check number, Batch posting number, balance, patient identification, patient name, encounter date, comments, entry date and follow-up date.

INSURANCE COMPANY DATA:

This contains tables for insurance company, policy, provider, fees, codes, rates, and procedure maintenance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1095, Health care services incurred on behalf of covered beneficiaries: collection from third-party payers; 10 U.S.C. 1079b, Procedures for charging fees for care provided to civilians; retention and use of fees collected; 42 U.S.C. Chapter 32, "Third Party Liability For Hospital and Medical Care;" 28 CFR part 43, "Recovery of Costs of Hospital and Medical Care and Treatment Furnished by the United States;" 45 CFR parts 160 and 164, Health and Human Services, General Administrative Requirements and Security & Privacy; 32 CFR part 220, Collection from Third Party Payers of Reasonable Charges for Healthcare Services; DoD 6010.15–M, Chapter 3, Medical Services Account; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To establish a standard patient accounting system for health care billing practices. It shall assist military treatment facilities in the collection, tracking, and reporting of data required for the Department of Defense Third Party Collection Program billing process by the adoption of standard commercial medical coding and billing practices to military treatment facilities.

The Defense Finance Accounting Service (DFAS) uses this information to bill person(s) or organization(s) liable for payment on behalf those receiving care at a military treatment facility.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, as amended, these records may specifically be disclosed outside the Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To interface with all commercial insurance carriers and parties against whom recovery has been sought by the Department of Defense Military Health System, as well as all parties involved in support of the collection activities for health care approved by the Department of Defense.

To the National Data Clearinghouse, an electronic healthcare clearinghouse, for purposes of converting the data to an industry-wide format prior to forwarding the billing information to the insurance companies for payment.

The DoD 'Blanket Routine Uses' set forth at the beginning of Office of the Secretary of Defense's compilation of systems of records notices apply to this system.

Note 1: This system of records contains individually identifiable health information. The Department of Defense Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond what is found in the Privacy Act of 1974 or mentioned in this system of records notice.

Note 2: Personal identity, diagnosis, prognosis or treatment information of any patient maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States is, except as per 42 U.S.C. 290dd–2, treated as confidential and disclosed only for the purposes and under the circumstances expressly authorized under 42 U.S.C. 290dd–2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper file folders and electronic storage media.

RETRIEVABILITY:

Records are retrieved by the sponsor or patient name, Social Security Number, Department of Defense Benefits Number, third party payer identification number assigned to individual, family member prefix (a two-digit code identifying the person's relationship to the Military Sponsor), and/or Patient Control Number.

SAFEGUARDS:

Physical access to system location restricted by cipher locks, visitor escort, access rosters, and photo identification. Adequate locks on doors and server components secured in a locked computer room with limited access. Each system end user device protected within a locked storage container, room, or building outside of normal business hours. All visitors and other persons that require access to facilities that house servers and other network devices supporting the system that do not have authorization for access escorted by appropriately screened/cleared personnel at all times.

Access to the system is role-based and a valid user account is required. The system provides two-factor authentication, using either a Common Access Card and Personal Identification Number or a unique logon identification and password. Where a unique logon identification and password is used, passwords must be renewed every sixty (60) days. Authorized personnel must have appropriate Information Assurance training, Health Insurance Portability and Accountability Act training, and Privacy Act of 1974 training.

RETENTION AND DISPOSAL:

Records are destroyed five years after the end of the year in which the record was closed.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, Defense Health Services Systems, Suite 1500, 5203 Leesburg Pike, Falls Church, VA 22041–3891.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system contains information about themselves should address written inquires to the TRICARE Management Activity, Department of Defense, ATTN: TMA Privacy Officer, Suite 810, 5111 Leesburg Pike, Falls Church, VA 22041–3206.

Request should contain participant's and/or sponsor's full name, their Social Security Number (SSN), and current address and telephone number and the names of the military treatment facility or facilities in which they have received medical treatment.

If requesting health information of a minor (or legally incompetent person), the request must be made by a custodial parent, legal guardian, or party acting in loco parentis of such individual(s). Written proof of the capacity of the requestor may be required.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system should address written inquiries to TRICARE Management Activity, Attention: Freedom of Information Act Requester Service Center, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

Requests should contain participant's and/or sponsor's full name, their Social Security Number (SSN), and current address and telephone number and the names of the military treatment facility or facilities in which they have received medical treatment.

If requesting health information of a minor (or legally incompetent person), the request must be made by a custodial parent, legal guardian, or party acting in loco parentis of such individual(s). Written proof of the capacity of the requestor may be required.

CONTESTING RECORD PROCEDURES:

The Office of the Secretary of Defense rules for accessing records, for contesting contents and appealing initial agency determinations are published in Office of the Secretary of Defense Administrative Instruction 81 (32 CFR part 311) or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from an automated medical records system, the Composite Health Care System (specifically, the Ambulatory Data Module), which is automatically sent to the Third Party Collection System. Other information may be obtained from the AHLTA System and the Theater Data Medical Stores System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2010–31789 Filed 12–17–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE; Formerly Known as the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 2011 Diagnosis-Related Group (DRG) Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of DRG revised rates.

SUMMARY: This notice describes the changes made to the TRICARE DRG-

based payment system in order to conform to changes made to the Medicare Prospective Payment System (PPS). It also provides the updated fixed loss cost outlier threshold, cost-to-charge ratios and the data necessary to update the Fiscal Year 2011 rates.

DATES: The rates, weights, and Medicare PPS changes which affect the TRICARE DRG-based payment system contained in this notice are effective for admissions occurring on or after October 1, 2010.

ADDRESSES: TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Branch, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: Ann N. Fazzini, Medical Benefits and Reimbursement Branch, TMA, telephone (303) 676–3803.

Questions regarding payment of specific claims under the TRICARE DRG-based payment system should be addressed to the appropriate contractor.

SUPPLEMENTARY INFORMATION: The final rule published on September 1, 1987 (52 FR 32992) set forth the basic procedures used under the CHAMPUS DRG-based payment system. This was subsequently amended by final rules published August 31, 1988 (53 FR 33461), October 21, 1988 (53 FR 41331), December 16, 1988 (53 FR 50515), May 30, 1990 (55 FR 21863), October 22, 1990 (55 FR 42560), and September 10, 1998 (63 FR 48439).

An explicit tenet of these final rules, and one based on the statute authorizing the use of DRGs by TRICARE, is that the TRICARE DRG-based payment system is modeled on the Medicare PPS, and that, whenever practicable, the TRICARE system will follow the same rules that apply to the Medicare PPS. The Centers for Medicare and Medicaid Services (CMS) publishes these changes annually in the **Federal Register** and discusses in detail the impact of the changes.

In addition, this notice updates the rates and weights in accordance with our previous final rules. The actual changes we are making, along with a description of their relationship to the Medicare PPS, are detailed below.

I. Medicare PPS Changes Which Affect the TRICARE DRG-Based Payment System

Following is a discussion of the changes CMS has made to the Medicare PPS that affect the TRICARE DRG-based payment system.

A. DRG Classifications

Under both the Medicare PPS and the TRICARE DRG-based payment system, cases are classified into the appropriate DRG by a Grouper program. The Grouper classifies each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). The Grouper used for the TRICARE DRG-based payment system is the same as the current Medicare Grouper with two modifications. The TRICARE system has replaced Medicare DRG 435 with two age-based DRGs (900 and 901), and has implemented thirty-four (34) neonatal DRGs in place of Medicare DRGs 385 through 390. For admissions occurring on or after October 1, 2001, DRG 435 has been replaced by DRG 523. The TRICARE system has replaced DRG 523 with the two age-based DRGs (900 and 901). For admissions occurring on or after October 1, 1995, the CHAMPUS grouper hierarchy logic was changed so the age split (age < 29 days) and assignments to Major Diagnostic Category (MDC) 15 occur before assignment of the PreMDC DRGs. This resulted in all neonate tracheostomies and organ transplants to be grouped to MDC 15 and not to DRGs 480–483 or 495. For admissions occurring on or after October 1, 1998, the CHAMPUS grouper hierarchy logic was changed to move DRG 103 to the PreMDC DRGs and to assign patients to PreMDC DRGs 480, 103, and 495 before assignment to MDC 15 DRGs and the neonatal DRGs. For admissions occurring on or after October 1, 2001, DRGs 512 and 513 were added to the PreMDC DRGs, between DRGs 480 and 103 in the TRICARE grouper hierarchy logic. For admissions occurring on or after October 1, 2004, DRG 483 was deleted and replaced with DRGs 541 and 542, splitting the assignment of cases on the basis of the performance of a major operating room procedure. The description for DRG 480 was changed to "Liver Transplant and/or Intestinal Transplant", and the description for DRG 103 was changed to "Heart/Heart Lung Transplant or Implant of Heart Assist System". For Fiscal Year 2007, CMS implemented classification changes, including surgical hierarchy changes. The TRICARE Grouper incorporated all changes made to the Medicare Grouper, with the exception of the pre-surgical hierarchy changes, which will remain the same as Fiscal Year 2006. For Fiscal Year 2008, Medicare implemented their Medicare-Severity DRG (MS–DRG) based payment system. TRICARE, however, continued with the Centers for Medicare and Medicaid Services DRG-based (CMS DRG) payment system for Fiscal Year 2008. For Fiscal Year 2009, the TRICARE/CHAMPUS DRG-based payment system shall be modeled on the MS–DRG system, with the following modifications.

The MS–DRG system consolidated the 43 pediatric CMS DRGs that were defined based on age less than or equal to 17 into the most clinically similar MS–DRGs. In their Inpatient Prospective Payment System final rule for MS–DRGs, Medicare stated for their population these pediatric CMS DRGs contained a very low volume of Medicare patients. At the same time, Medicare encouraged private insurers and other non-Medicare payers to make refinements to MS–DRGs to better suit the needs of the patients they serve. Consequently, TRICARE finds it appropriate to retain the pediatric CMS DRGs for our population. TRICARE is also retaining the TRICARE-specific DRGs for neonates and substance use.

TRICARE has retained the MS–DRG numbering system for Fiscal Year 2009 and those TRICARE-specific DRGs have been assigned available, blank DRG numbers unused in the MS–DRG system. We refer the reader to *http://www.tricare.mil/drgrates* for a complete crosswalk containing the TRICARE DRG numbers for Fiscal Year 2009.

For Fiscal Year 2009, TRICARE will use the MS–DRG v26.0 pre-MDC hierarchy, with the exception that MDC 15 is applied after DRG 011–012 and before MDC 24.

For Fiscal Year 2010, there are no additional or deleted DRGs.

For Fiscal Year 2011, the added DRGs and deleted DRGs are the same as those included in CMS' final rule published on August 16, 2010. That is, DRG 009 is deleted; DRGs 014 and 015 are being added.

B. Wage Index and Medicare Geographic Classification Review Board Guidelines

TRICARE will continue to use the same wage index amounts used for the Medicare PPS. TRICARE will also duplicate all changes with regard to the wage index for specific hospitals that are redesignated by the Medicare Geographic Classification Review Board. In addition, TRICARE will continue to utilize the out commuting wage index adjustment.

C. Revision of the Labor-Related Share of the Wage Index

TRICARE is adopting CMS' percentage of labor related share of the standardized amount. For wage index values greater than 1.0, the labor related portion of the Adjusted Standardized Amount (ASA) shall equal 68.8 percent.

For wage index values less than or equal to 1.0 the labor related portion of the ASA shall continue to equal 62 percent.

D. Hospital Market Basket

TRICARE will update the adjusted standardized amounts according to the final updated hospital market basket used for the Medicare PPS for all hospitals subject to the TRICARE DRG-based payment system according to CMS's August 16, 2010, final rule. For Fiscal Year 2011, the market basket is 2.6 percent. This year, Medicare applied two reductions to their market basket amount: (1) A 0.25 percent reduction due to provisions found in the Patient Protection and Affordable Care Act, and (2) a 2.9 percent reduction for documentation and coding adjustments found in Public Law 110–90. These two reductions do not apply to TRICARE.

E. Outlier Payments

Since TRICARE does not include capital payments in our DRG-based payments (TRICARE reimburses hospitals for their capital costs as reported annually to the contractor on a pass-through basis), we will use the fixed loss cost outlier threshold calculated by CMS for paying cost outliers in the absence of capital prospective payments. For Fiscal Year 2011, the TRICARE fixed loss cost outlier threshold is based on the sum of the applicable DRG-based payment rate plus any amounts payable for Indirect Medical Education (IDME) plus a fixed dollar amount. Thus, for Fiscal Year 2011, in order for a case to qualify for cost outlier payments, the costs must exceed the TRICARE DRG-based payment rate (wage adjusted) for the DRG plus the IDME payment plus $21,229 (wage adjusted). The marginal cost factor for cost outliers continues to be 80 percent.

F. National Operating Standard Cost as a Share of Total Costs

The Fiscal Year 2011 TRICARE National Operating Standard Cost as a Share of Total Costs (NOSCASTC) used in calculating the cost outlier threshold is 0.92. TRICARE uses the same methodology as CMS for calculating the NOSCASTC; however, the variables are different because TRICARE uses national cost-to-charge ratios while CMS uses hospital-specific cost-to-charge ratios.

G. Indirect Medical Education (IDME) Adjustment

Passage of the Medicare Modernization Act of 2003 modified the formula multipliers to be used in the calculation of the indirect medical education (IDME) adjustment factor. Since the IDME formula used by TRICARE does not include disproportionate share hospitals (DSHs), the variables in the formula are different than Medicare's; however, the percentage reductions that will be applied to Medicare's formula will also be applied to the TRICARE IDME formula. The new multiplier for the IDME adjustment factor for TRICARE for Fiscal Year 2011 is 1.02.

H. Expansion of the Post Acute Care Transfer Policy

For Fiscal Year 2011 TRICARE is adopting CMS' expanded post acute care transfer policy according to CMS' final rule published August 16, 2010.

I. Cost-to-Charge Ratio

While CMS uses hospital-specific cost-to-charge ratios, TRICARE uses a national cost-to-charge ratio. For Fiscal Year 2011, the cost-to-charge ratio used for the TRICARE DRG-based payment system for acute care hospitals and neonates will be 0.3664. This shall be used to calculate the adjusted standardized amounts and to calculate cost outlier payments, except for children's hospitals. For children's hospital cost outliers, the cost-to-charge ratio used is 0.3974.

J. Updated Rates and Weights

The updated rates and weights are accessible through the Internet at *http://www.tricare.osd.mil* under the sequential headings TRICARE Provider Information, Rates and Reimbursements, and DRG Information. Table 1 provides the ASA rates and Table 2 provides the DRG weights to be used under the TRICARE DRG-based payment system during Fiscal Year 2011. The implementing regulations for the TRICARE/CHAMPUS DRG-based payment system are in 32 CFR Part 199.

Dated: December 14, 2010.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–31792 Filed 12–17–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before January 19, 2011.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: December 14, 2010.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title of Collection: High School Longitudinal Study of 2009 (HSLS:09) First Follow-up Field Test 2011.

OMB Control Number: 1850–0852.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: Individuals or household.

Total Estimated Number of Annual Responses: 6,873.

Total Estimated Annual Burden Hours: 1,161.

Abstract: The High School Longitudinal Study of 2009 (HSLS:09) is

a nationally representative, longitudinal study of more than 20,000 ninth graders in 944 schools, who will be followed through their secondary and postsecondary years. The study focuses on understanding students' trajectories from the beginning of high school into university or the workforce and beyond and will provide data on how students navigate the transition between high school and the postsecondary world; and what courses, majors, first job, and careers students decide to pursue when, why, and how, especially, but not solely, in regards to science, technology, engineering, and math courses, majors, and careers. This study includes a new student assessment in algebraic skills, reasoning, and problem solving and surveys students, their parents, teachers, school administrators, and school counselors. This submission is a request for clearance for a 2011 field test and a 60-day **Federal Register** notice waiver for the 2012 full scale HSLS:09 First Follow-up data collection.

Requests for copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4415. When you access the information collection, click on "Download Attachments " to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–31799 Filed 12–17–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 18, 2011.

ADDRESSES: Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: December 15, 2010.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: Revision.

Title of Collection: Survey on the Use of Funds Under Title II, Part A (Improving Teacher Quality State Grants—Subgrants to Local Education Agencies (LEAs)).

OMB Control Number: 1810–0618.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: State, Local, or Tribal Government, State Educational Agencies or Local Education Agencies.

Total Estimated Number of Annual Responses: 850.

Total Estimated Number of Annual Burden Hours: 4,600.

Abstract: The Elementary and Secondary Education Act of 1965, as amended, provides funds to districts to improve the quality of their teaching and principal force and raise student achievement. These funds are provided to districts through Title II, Part A (Improving Teacher Quality State Grants—Subgrants to LEAs). The purpose of this survey is for the U.S. Department of Education to have a better understanding of how districts use these funds. The survey also collects information on high-quality professional development in LEAs. In addition to the LEA survey, the package also includes a short survey for State Educational Agencies (SEA) that provides information on fiscal year allocations of Title II, Part A funds made to the LEAs selected for participation in the LEA survey.

This OMB clearance request is to continue these analyses using a similar data collection instrument and sampling plan for the 2011–2012 school year and subsequent years. Minor changes to the LEA survey are requested. No changes to the SEA survey are required.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4473. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FRDoc. 2010–31862 Filed 12–17–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 18, 2011.

ADDRESSES: Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: December 14, 2010.

Darrin A. King,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Revision.

Title of Collection: Education Longitudinal Study (ELS) 2002 Third Follow-up 2011 Field Test.

OMB Control Number: 1850–0652.

Agency Form Number(s): N/A.

Frequency of Responses: Annual.

Affected Public: Individuals or household.

Total Estimated Number of Annual Responses: 13,964.

Total Estimated Number of Annual Burden Hours: 875.

Abstract: The Education Longitudinal Study of 2002 is a nationally representative study of two high school grade cohorts (spring 2002 tenth-graders and spring 2004 twelfth-graders) comprising over 16,000 sample members. The study focuses on achievement growth in mathematics in the high school years and its correlates, the family and school social context of secondary education, transitions from high school to postsecondary education and/or the labor market, and experiences during the postsecondary years. Major topics covered for the postsecondary years include postsecondary education access, choice, and persistence; baccalaureate and sub-baccalaureate attainment; the work experiences of the non-college-bound; and other markers of adult status such as family formation, civic participation and other young adult life course developments. Data collections took place in 2002, 2004, 2006 (two years out of high school), and now will take place in 2012, when most sample members are around 26 years of age. This submission requests OMB's approval for the third follow-up 2011 field test and a 60-day **Federal Register** waiver for the 2012 full scale clearance.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4460. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2010–31800 Filed 12–17–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: The Department of Education (Department) gives notice that on July 17, 2009, an arbitration panel rendered a decision in the matter of *Jerry Bird* v. *Oregon Commission for the Blind, Case no. R–S/07–2.* This panel was convened by the Department under 20 U.S.C. 107d–1(a), after the Department received a complaint filed by the petitioner, Jerry Bird.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the full text of the arbitration panel decision from Suzette E. Haynes, U.S. Department of Education, 400 Maryland Avenue, SW., room 5022, Potomac Center Plaza, Washington, DC 20202–2800. *Telephone:* (202) 245–7374. If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS), toll-free, at 1–800–877–8339.

Individuals with disabilities may obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: Under section 6(c) of the Randolph-Sheppard Act (Act), 20 U.S.C. 107d–2(c), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

Jerry Bird (Complainant) alleged violations by the Oregon Commission for the Blind, the State licensing agency (SLA), under the Act and implementing regulations in 34 CFR part 395. Specifically, Complainant alleged that

the SLA improperly administered the Randolph-Sheppard Vending Facility Program in violation of the Act, implementing regulations under the Act, and State rules and regulations. Complainant further alleged that the SLA denied him an opportunity to manage vending machines at the Chemeketa Community College in addition to those he was already operating in exchange for relinquishing his vending location at the Oregon State Lottery Building (Lottery Building) as well as a proposed espresso cart operation in the Lottery Building.

Since 1991, Complainant has been a licensed blind vendor in the Randolph-Sheppard Vending Facility Program. In the fall of 2005, while operating his vending location at the Lottery Building, Complainant learned from another blind vendor at the Lottery Building that customers had approached her regarding their interest in having an espresso cart in the building. The other vendor discussed her plans with building management and with a member of the Blind Enterprise Consumer Committee (BECC). BECC is the Elected Committee of Blind Vendors under the Act. The BECC member informed Complainant of the discussions.

Subsequently, Complainant contacted SLA staff to raise his concerns of direct competition to his vending location with the placement of the proposed espresso cart at the Lottery Building. Moreover, Complainant felt the espresso cart should become part of his vending location. Complainant alleged that initially SLA staff agreed with his position, but later changed its opinion and moved forward with its intention of installing the espresso cart at the Lottery Building separate from Complainant's vending location.

Complainant objected to the SLA's decision. A meeting was held in October 2005 with SLA staff and a BECC member. At the meeting, Complainant alleged that he offered to give up the Lottery Building vending location, thereby permitting it to be combined with the proposed espresso cart, in return for a vending machine location at the Santiam Correctional Facility, which would cover his lost revenue from the vending machines in the Lottery Building, and at the Chemeketa Community College, which would reimburse him for lost income for the proposed espresso cart.

In November 2005, Complainant was contacted by an SLA staff member informing him that the vending machines at the Santiam Correctional Facility were being transferred to him. Later, in early 2006, Complainant contacted the SLA to inquire whether it had pursued a vending contract with the Chemeketa Community College. The SLA informed Complainant that it was in the process of obtaining an opinion from the Oregon Attorney General's (AG) office concerning the extent of the SLA's legal authority under State law regarding community colleges and that a response from the AG's office was expected soon.

On July 21, 2006, the SLA informed Complainant that the Santiam Correctional Facility and another vending location he had recently received would more than compensate him for the loss of income at the Lottery Building. Also, the SLA informed Complainant that it would not assign him any additional vending locations without the approval of the BECC. Eventually, while the BECC voted to assign Complainant the Chemeketa Community College vending facility, the SLA invalidated the vote due to an alleged conflict of interest.

Complainant requested a State fair hearing on the SLA's decisions. A State fair hearing on this matter was held. On October 31, 2007, the hearing officer issued a decision denying Complainant's grievance. On December 14, 2007, the SLA adopted the hearing officer's decision as final agency action. It was this decision that Complainant sought review of by a Federal arbitration panel.

According to the arbitration panel, the issues to be resolved were: (1) Whether the SLA violated the Act when it failed to give Complainant the Chemeketa Community College vending or an equivalent opportunity; (2) Whether the SLA violated the Act by delaying the administrative appeal process; and (3) If there was a violation of the Randolph-Sheppard Act, what was the appropriate remedy.

Arbitration Panel Decision

After hearing testimony and reviewing all of the evidence, the panel majority ruled that the Oregon Commission for the Blind violated the Act by operating the Randolph-Sheppard program in an arbitrary and capricious manner when it: (1) Offered the Chemeketa Community College vending location or its equivalent to Complainant as part of a negotiation with him to relinquish his vending location in the Lottery Building without consulting the BECC; (2) ignored the active participation of the BECC by declaring the BECC's vote on the vending location at the Chemeketa Community College invalid; and (3) delayed the administrative process in response to Complainant's request for a State fair hearing.

Notwithstanding the SLA's argument that it had not waived sovereign immunity, the panel found that it had jurisdiction to order monetary damages. Thus, as a remedy, the panel majority ruled that the SLA should: (1) Remit to Complainant an amount equal to the net revenues from the vending location at the Chemeketa Community College less set-aside, plus interest at the applicable Federal statutory rate, retroactive to April 2007; (2) award to Complainant the vending location at the Chemeketa Community College; and (3) amend its regulations to provide for timelines in processing vendor complaints and requests for Federal arbitrations under the Act. Additionally, the panel majority ruled that the Complainant was entitled to reasonable attorney's fees and costs. The panel also retained jurisdiction for 90 days following the award's issuance to monitor implementation and calculation of the award of attorney's fees.

One panel member dissented from the panel majority's decision. The panel member dissented from the panel majority regarding: (1) The award of monetary damages and attorney's fees to Complainant, (2) the finding that the SLA had violated the Act because it did not consult the BECC, and (3) the finding that the SLA violated the Act as the result of a delay in the administrative hearing process.

Conversely, the panel member concurred with the panel majority that the actions of the SLA were in violation of the Act, not in breach of a contract. Also, the panel member concurred with the panel majority regarding prospective relief available to Complainant.

Subsequent to the arbitration panel decision, the attorney for the Complainant requested that the panel reconsider its decision and amend the award based upon the fact that Chemeketa Community College had entered into a beverage contract that was contrary to the Act. Also, the attorney requested that the panel award him $98,624.00 in legal fees and costs.

On April 1, 2010, the panel majority found that the new allegation regarding the beverage contract was outside the scope of the panel's authority and thus denied the request of Complainant's attorney to reconsider and amend the original award. Additionally, the panel reviewed the billing statements in detail from the attorney regarding his services rendered and the legal fees and costs to represent the Complainant. Based upon the finding that not all of the hours claimed by Complainant's attorney were pertinent to this arbitration, the panel

majority concluded that reasonable attorney's fees and costs for this arbitration should be reduced to $28,393.50.

One panel member dissented stating that the scope and amount of an award of attorney's fees and costs would not materially damage the Oregon Commission for the Blind's Randolph-Sheppard program. Consequently, this panel member would award Complainant's attorney $65,749.33, reducing the original amount requested by one-third.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the Department.

Electronic Access to This Document: You can view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: December 15, 2010.

Alexa Posny,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2010–31879 Filed 12–17–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Assessment Technology Standards Request for Information (RFI)

AGENCY: Office of Innovation and Improvement, U.S. Department of Education.

ACTION: Notice of request for information to gather technical expertise pertaining to assessment technology standards.

SUMMARY: The purpose of this RFI is to collect information relating to assessment technology standards. Toward that end, we are posing a series of questions to which we invite interested members of the public to respond. The Department anticipates making use of this information in the following ways. First of all, we expect to use this information to help determine the appropriate interoperability standards for assessments and related work developed under the Race to the Top Assessment (RTTA) program. Secondly, we expect to use this information to help us develop related standards-based programs. For example, we might, in the future, offer additional grants, contracts, or awards and some of those offerings may include similar interoperability requirements. This RFI may be used to help set the interoperability requirements for those offerings as well as the existing RTTA program.

Under the RTTA program, the Department requires grantees to develop assessments that (*see http://www2.ed.gov/programs/racetothetop-assessment/executive-summary.pdf,* p. 78):

"5. Maximize the interoperability of assessments across technology platforms and the ability for States to switch their assessments from one technology platform to another by—

(a) Developing all assessment items to an industry-recognized open-licensed interoperability standard that is approved by the Department during the grant period, without non-standard extensions or additions; and

(b) Producing all student-level data in a manner consistent with an industry-recognized open-licensed interoperability standard that is approved by the Department during the grant period."

DATES: Written submissions must be received by the Department on or before 5 p.m., Washington, DC time, on January 17, 2011.

ADDRESSES: We encourage submissions by e-mail using the following address: *RTTA-RFI@ed.gov.* You must include the term "Assessment RFI response" in the subject line of your e-mail. If you prefer to send your input by mail or hand delivery, address it to Steve Midgley, Office of Educational Technology, Attention: Assessment RFI, U.S. Department of Education, 400 Maryland Avenue, SW., Room 7E202, Washington, DC 20202–0001.

FOR FURTHER INFORMATION CONTACT: Steve Midgley, U.S. Department of Education, 400 Maryland Avenue, SW., Room 7E202, Washington, DC 20202–0001 by phone at 202–453–6381 or e-mail at *RTTA-RFI@ed.gov.*

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

1. Introduction

The Department is seeking information on technology standards that may be applied to the management and delivery of education-related assessments, as well as those that may be applied to the capture and reporting of assessment results within distributed online learning environments (*i.e.* learning environments with components managed by more than one organization). THIS IS A REQUEST FOR INFORMATION (RFI) ONLY. This document uses the term "technology standards" to refer to assessment technology standards, specifications, technical approaches and implementations, and any other functional or formal descriptions of technical functionality. (*Note:* This document refers to curricular or content standards specifically as "curricular standards.") Information about non-assessment technology standards and related issues may be relevant and included in responses, but this RFI is specifically inquiring into technology standards related to assessments of learning. For the purpose of this RFI, the Department does not distinguish between technology specifications and technology standards produced by consortia, other groups, or nationally or internationally recognized technology standards development organizations.

This RFI is issued solely for information and planning purposes and does not constitute a Request for Proposals (RFP) or a promise to issue an RFP or notice inviting applications (NIA). This request for information does not commit the Department to contract for any supply or service whatsoever. Further, the Department is not at this time seeking proposals and will not accept unsolicited proposals. Responders are advised that the Department will not pay for any information or administrative costs that a person or entity may incur in responding to this RFI. All costs associated with responding to this RFI will be solely at the interested party's expense. Not responding to this RFI will not preclude individuals or organizations from applying under future contract or grant competition. If the Department issues an RFP or NIA, it will be posted on the Federal Business Opportunities (*https://www.fbo.gov/*) Web site (in the case of contracts) or the **Federal Register** (*http://www.gpoaccess.gov/fr/*) Web site (in the case of grants, or other awards). It is the responsibility of the potential offerors to monitor these sites to determine whether the Department issues an RFP or NIA after considering the information received in response to this RFI. Any company or industry proprietary information contained in responses should be clearly marked as such, by paragraph, such that publicly releasable

information and proprietary information are clearly distinguished. Any clearly marked proprietary information received in response to this request will be properly protected from unauthorized disclosure. The Department will not use proprietary information submitted from any one source to establish the capability and requirements for any future acquisition or grant competition so as not to inadvertently restrict competition. The Department may publicly release or use any or all materials submitted which are not so marked.

The documents and information submitted in response to this RFI become the property of the U.S. Government and will not be returned.

2. Background

The Department is investigating open technology standards and specifications to support the interoperable delivery (that is, delivery in a way that allows effective use across multiple systems or components) of State- or locally selected content and assessments for purposes of education and training when conducted via online learning platforms. As a part of this effort, the Department is investigating the availability and current practice of open technology standards and innovative technologies to support management, delivery, and exchange of assessment content, and the capture and reporting of assessment results.

Existing technologies may serve as the basis for the creation of new open technology standards and specifications, if implementation details related to these technologies can be disclosed and provided without restriction for technical standardization or use. We expect that applicable open technology standards and specifications will be combined with other technology standards, current or to be developed, providing the assessment capabilities for online learning platforms that will support the next generation of technology for learning content. Therefore, this RFI seeks information on a range of solutions and approaches to standardization of assessment via technology, including deployment, collection and reporting solutions, techniques, and technology standards.

It is possible that RTTA grantees will be able to use one or more existing technology standards, or it may be that additional development work will be required to obtain sufficiently complete technology standards for the program. It is also possible that one or more existing technology standards are suitable but are not licensed in a way that will permit free and open use by the public. Through this RFI, the Department seeks to uncover and gather information on how to resolve as many of these issues as possible.

The Department may engage in additional work to address these issues at the conclusion of its analysis of the responses to this RFI.

There are numerous efforts underway across the Department that can benefit from assessment technology standardization of assessment content, results, and reporting interoperability. For example, the Department is providing significant funding for the development of "next- generation" assessment systems via the RTTA program (*see http://edocket.access.gpo.gov/2010/pdf/2010-8176.pdf; http://www2.ed.gov/programs/racetothetop-assessment/index.html*). In order to promote technological innovation and market competition, the Department has specified that all assessment content developed under this program be developed using an "industry recognized open-licensed interoperability standard" that is approved by the Department. The assessment content developed under the program must also be made freely available to any State, technology platform provider, or others that request it for purposes of administering assessments (consistent with test security and protection requirements). Moreover, the standards and technology for controlling sensitive data (assessment results and related information) must also maintain the privacy of any individually identifiable information while permitting secure interchange among authorized systems. The Department intends that these requirements, taken as a whole, give States the flexibility to switch from one technology platform to another, allowing multiple providers to compete for States' business and for States to make better decisions about cost and value. Use of technology standards that meet these requirements will help ensure that public investments in assessment instruments and related technology can be used in the education sector as broadly as possible and, at the same time, contribute to a competitive and innovative market place.

Through this notice, the Department solicits advice, technical information, additional questions (that is, questions in addition to those put forward later in this notice), and other input as to how the Department can select the best available technology standard(s) for the RTTA program, as well as general information related to assessment technology standards and technology and policy.

3. Context for Responses

3.1 The primary intent of this RFI is to explore existing, in-process, or planned open technology standards, specifications, and technology products that support the management, delivery, and exchange of assessment content and the capture and exchange of assessment results. While the focus of this RFI is assessment technology standards, the Department recognizes that assessment generally occurs within the context of broader learning activities (whether online or offline) and, therefore, does not wish to restrict the range of responses to assessment-only approaches. The Department, therefore, also welcomes responses that address broader technology standards or approaches that are relevant to the handling of assessment management, delivery, or reporting. As mentioned earlier, the Department has required RTTA grantees to adopt a technical standard (or standards) that permit interoperability of the assessments and technology developed by that program. To help focus our consideration of the comments provided in the response to this RFI, we have developed several questions regarding the development of assessment technology standard(s) and their application to the RTTA program. Because these questions are only a guide to help us better understand the issues related to the development of interoperable technology standards for assessments, respondents do not have to respond to any specific question. Commenters responding to this RFI may provide comments in a format that is convenient to them.

3.2 Questions About Assessment Technology Standards

General and Market Questions

3.2.1 *Current Landscape.* What are the dominant or significant assessment technology standards and platforms (including technologies and approaches for assessment management, delivery, reporting, or other assessment interoperability capabilities)? What is the approximate market penetration of the major, widely adopted solutions? To what degree is there significant regional, educational sub-sector, or international diversity or commonality regarding the adoption of various technology standards and capabilities, if any?

3.2.2 *Timelines.* Approximately how long would it take for technology standards setting and adoption processes to obtain a technology standard that meets many or all of the features or requirements described in this RFI? What are the significant factors that would affect the length of that

timeline, and how can the impact of those factors be mitigated? More specifically, would the acquisition of existing intellectual property (IP), reduction or simplification of specific requirements, or other strategies reduce the time required to develop these technology standards and processes?

3.2.3 *Process.* What process or processes are appropriate for the adoption, modification, or design of the most effective technology standard in a manner that would answer many or all of the questions in this RFI? We are interested in learning the extent to which the uses of one or another process would affect the timeline required to develop the technology standards.

3.2.4 *Intellectual Property.* What are the potential benefits and costs to the Federal Government, States, and other end-users of different IP restrictions or permissions that could be applied to technology standards and specifications? Which types of licensed or open IP (*e.g.,* all rights reserved, MIT Open License, or Gnu Public License) should be considered as a government technology standard? How should openness relating to the IP of technology standards be defined and categorized (*e.g.,* Open Source Initiative-compatible license, free to use but not modify, non-commercial use only, or proprietary)

3.2.4.1 *Existing Intellectual Property.* What are the IP licenses and policies of existing assessment technology standards, specifications, and development and maintenance policies? Are the documents, processes, and procedures related to these IP licenses and policies publicly available, and how could the Department obtain them?

3.2.5 *Customizing.* Can assessment tools developed under existing technology standards be customized, adapted, or enhanced for the use of specific communities of learning without conflicting with the technology standard under which a particular assessment tool was developed? Which technology standards provide the greatest flexibility in permitting adaption or other enhancement to meet the needs of different educational communities? What specific provisions in existing technology standards would tend to limit flexibility to adapt or enhance assessment tools? How easy would it be to amend existing technology standards to offer more flexibility to adapt and enhance assessment tools to meet the needs of various communities? Do final technology standards publications include flexible IP rights that enable and permit such customizations? What are the risks and the benefits of permitting such customization within technology standards? When would it make sense to prevent or to enable customization?

3.2.6 *Conformance and Testing.* Do existing technology standards or technologies include specifications or testing procedures that can be used to verify that a new product, such as an assessment tool, meets the technology standards under which it was developed? What specifications or testing procedures exist for this purpose, *e.g.,* software testing suites, detailed specification descriptions, or other verification methods? Are these verification procedures included in the costs of the technology standards, or provided on a free or fee-basis, or provided on some combination of bases?

3.2.7 *Best Practices.* What are best practices related to the design and use of assessment interoperability technology standards? Where have these best practices been adopted, and what are the general lessons learned from those adoptions? How might such best practices be effectively used in the future?

Technological Questions Regarding Assessment Technology Standards

3.2.8 *Interoperable Assessment Instruments.* What techniques, such as educational markup or assessment markup languages (*see also http://en.wikipedia.org/wiki/Markup_language*), exist to describe, package, exchange, and deliver interoperable assessments? How do technology standards include assessments in packaged or structured formats? How can technology standards enable interoperable use with resources for learning content? How can technology standards permit assessment instruments and items to be exchanged between and used by different assessment technology systems?

3.2.9 *Assessment Protection.* For this RFI, "Assessment Protection" means keeping assessment instruments and items sufficiently controlled to ensure that their application yields valid results. (*See also* paragraph below, "Results Validity.") When assessment instruments or content are re-used or shared across organizations or publicly, are there capabilities or strategies in the technology standards to assist in item or instrument protection? What mechanisms or processes exist to ensure that assessment results are accurate and free from tampering? Do examples exist of public or semi-public assessment repositories that can provide valid tests or assessments while still sharing assessment items broadly?

3.2.10 *Security and Access.* In what ways do technology standards provide for core security issues, such as access logging, encryption, access levels, and inter-system single-sign-on capabilities (*i.e.,* one login for systems managed by different organizations)?

3.2.11 *Results Validity.* For this RFI, "Results Validity" means protecting the statistical validity and reliability of assessment instruments and items. How can interoperable instruments be managed to ensure they are administered in a way that ensures valid results? Are solutions regarding assurance or management of validity appropriate for inclusion in technology standards, or should they be addressed by the communities that would use the technology standards to develop specific assessments?

3.2.12 *Results Capture.* How can technology standards accurately link individual learners, their assessment results, the systems where they take their assessments, and the systems where they view their results? How do technology standards accurately make these linkages when assessments, content, and other data reside across numerous, distinct learning and curriculum management systems, sometimes maintained by different organizations?

3.2.13 *Results Privacy.* How do technology standards enable assessment results for individual learners to be kept private, especially as assessments results are transferred across numerous, distinct learning systems? How can such results best be shared securely over a distributed set of systems managed by independent organizations that are authorized to receive the data, while still maintaining privacy from unauthorized access?

3.2.14 *Anonymization.* Do technology standards or technologies permit or enable anonymization of assessment results for research or data exchange and reporting? How do various technology standards accomplish these tasks? For example, where a number of students take a test, can their answers be anonymized (through aggregation or other techniques) and shared with researchers to examine factors related to the assessment (*e.g.,* instructional inputs, curriculum, materials, validity of the instrument itself) without revealing the identity of the learners? Is this an area where technology standards can help?

3.2.15 *Scoring and Analysis of Results.* How can technology standards be used for the scoring, capture, recording, analysis or evaluation of assessment results?

3.2.15.1 *Results Aggregation and Reporting.* How can technology standards enable assessment results to be aggregated into statistical or other groupings? How can technology standards provide capabilities for results (aggregated or raw) to be reported across multiple technology systems? For example, if a learner takes an assessment in one system, but the results are to be displayed in another, how do technology standards address transferring results across those systems? How do technology standards address aggregation of results for a number of learners who are assessed in one system and whose results are displayed in yet another technology system? Can anonymization controls be included with aggregation and reporting solutions to ensure individual data privacy and protection (*see also* 3.2.14 above).

3.2.16 *Sequencing.* How do technology standards enable assessment items stored within an assessment instrument to be sequenced for appropriate administration, when the assessment consists of more than a single linear sequence of items? For example, how do technology standards address computer-adaptive assessments? How are the logic rules that define such sequencing embedded within a technology standard?

3.2.17 *Computer-Driven scoring.* How do technology standards permit, enable, or limit the ability to integrate computer-driven scoring systems, in particular those using "artificial intelligence," Bayesian analysis, or other techniques beyond traditional bubble-fill scoring?

3.2.18 *Formative, Interim, and Summative Assessments.* What technology and technology standards exist that support formative, interim, and summative assessments? What technology standards support non-traditional assessment methods, such as evidence, competency, and observation-based models?

3.2.19 *Learning and Training.* What applications or technology standards exist that can apply assessment results to support learning and training? Are there technology standards or applications that support more than one of the following: Early learning, elementary/secondary education, postsecondary education, job training, corporate training, and military training?

3.2.20 *Repositories.* What technology standards-based assessment instruments, questions, or item banks (or repositories and learning management systems) are used to manage and deliver assessments?

3.2.21 *Content Lifecycle.* How can technology standards be employed to support an assessment content lifecycle (creation, storage, edit, deletion, versioning, *etc.*)?

3.2.22 *Interfaces and Services.* What interoperability specifications for application program interfaces (APIs) or Web services interfaces to assessment management, delivery and tracking systems have been developed? How are they organized? What are the best practices related to their design and usage? How broadly have they been adopted, and what are the lessons learned from those who have designed or implemented them?

3.2.23 *Internal Transparency and Ease of Use.* Are there technology standards and communication protocol implementations that are "human readable?" What are the benefits and risks of "human readable" technology standards? Some technology standards are not comprehensible without tools to unpack, decode, or otherwise interpret the implementation data resulting from use of the technology standard. Other technology standards, such as HTML, RTF and XML, are largely readable by a reasonably sophisticated technical user. RESTful-designed Web services are often specifically intended to be readable by, and even intuitive to, such users as well. We ask commenters to consider the extent to which various technology standards possess native "human readability" and comprehensibility.

3.2.24 *Discovery and Search.* How is the discovery of items or instruments (or other elements) handled within a technology standard or technology? For example, are there search APIs that are provided to permit a search? How are metadata exposed for discovery by search engines or others?

3.2.25 *Metadata.* What kinds of metadata about assessments (*i.e.,* information describing assessments) are permitted to be stored within technology standards or technologies? How do technology standards accommodate structured data (such as new State curriculum standards) that were not anticipated when the technology standard was designed? How are metadata describing unstructured (such as free-text input) and semi-structured data incorporated within assessment technology standards?

3.2.26 *Recommendation, Rating, and Review.* Do technology standards or technologies permit rating, review, or recommendations to be incorporated within an item, instrument, or other element? If so, in what ways? How are conflicting ratings handled? Do technology standards or technologies permit "reviews of reviews" (*e.g.,* "thumbs up/down" or "Rate this review 1–5")? Is the rating or review system centralized, or are multiple analyses of the rating data permitted by distributed participants?

3.2.27 *Content and Media Diversity.* What types of diverse content types and forms of assessment content exist that extend beyond traditional paper-based assessments translated to an electronic delivery medium? We are interested in learning more about electronic delivery and interaction media, such as performance-based assessments, games, virtual worlds, mobile devices, and simulations.

3.2.28 *Accessibility.* How do technology standards ensure that the platforms are accessible to all persons with disabilities? How can technology standards ensure the availability of accommodations based on the individual needs of persons with disabilities? What factors are important to consider so that accessibility capabilities can be included within an interoperable technology standard, both for end-users, as well as operators, teachers, and other administrators? How are issues related to Universal Design for Learning (UDL) relevant to standards for accessible use? How can technology standards provide for, improve, or enhance Section 504 and 508 of the Rehabilitation Act compliance for assessment technology?

3.2.29 *English Learners.* How do technology standards ensure that assessment platforms support the assessment, reporting of results, and other capabilities related to the assessment of English learners?

Questions about process and IP for technology standards development include:

3.2.30 *Transparency.* How do the organizations that develop assessment technology standards approach development and maintenance activities? Is it common for such work to be performed in an unrestricted or open public forum? Are there examples of organizations conducting technology standards development through private (*e.g.,* membership-driven) activities? Are the final work products produced through standards-development activities made publicly available in a timely manner? If not, when or for how long is it necessary to keep these products private? What circumstances require, justify, or benefit from protecting trade secrets or intellectual property?

3.2.31 *Participation.* Does the development of assessment technology standards depend on membership fees from individuals and organizations who

wish to contribute to development and maintenance activities? Are there requirements for "balance" within membership across different constituencies? What are the cost and structure of such memberships? Are there viable alternative methods for generating revenue necessary to conduct the work? What are the most realistic and useful ways to generate participation, fund work, and ensure public access to a technology standards-setting process?

3.2.32 *Availability.* What are the costs associated with final publication of technology standards, and with all supporting materials for those standards, and can these assessment products be made available at nominal or no cost to users? Do technology standards require restrictions for use or application, including limitations on derivation, resale, or other restrictions? Is it appropriate to obtain patent, copyright, or trademark protections for assessment technology standards? Are the publications for technology standards and materials provided in a machine-readable, well-defined form? Are there restrictions or limitations on any future application of the publications and materials after initial release? Are developer-assistance materials (*e.g.,* Document Type Definitions, test harnesses, code libraries, reference implementations) also made available free under an open-license? In what circumstances should technology standards-setting organizations retain rights or control, or impose restrictions on the use of publications, derivations, and resale or developer-assistance technologies, as opposed to open-licensing everything? When should materials be made freely available (*that is,* at no cost to the consumer) while still retaining most or all copyright license rights?

3.2.33 *Derivation.* For technology standards, do copyright licenses for publications and all supporting materials and software licenses for software artifacts permit the unrestricted creation and dissemination of derivative works (a.k.a. "open licensed")? Do such open licenses contain restrictions that require publication and dissemination of such works in a manner consistent with the openness criteria described by, for example, a GNU Public License (a.k.a. "viral licensed") or an MIT Public License (a.k.a. "academic licensed")? Are there policies or license restrictions on derivative works intended to prevent re-packaging, re-sale, or modifications without re-publication for assessment technology standards?

3.2.34 *Licensing Descriptions* (for materials contained within the standard, not for the standard's licensing itself). How do technology standards address licensing terms for assessment resources described within the technology standard? Are there successful technology standards or approaches for describing a wide variety of license types, including traditional per-use licensing, Web-fulfillment, free (but licensed), open (but licensed, including commercial or non-commercial use permitted), and public domain status. Are there other resource licensing issues that should be addressed within a technology standard as a best practice?

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* Braille, large print, or audiotape) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

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Program Authority: 20 U.S.C. 6771.

Dated: December 15, 2010.

James Shelton, III,

Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2010–31881 Filed 12–17–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

December 10, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2615–001; ER11–2335–001.

Applicants: Plum Point Energy Associates, L.L.C., Plum Point Services Company, LLC.

Description: Plum Point MBR Entities Submit 652 Notice of Change in Status.

Filed Date: 12/10/2010.

Accession Number: 20101210–5174.

Comment Date: 5 p.m. Eastern Time on Monday, January 03, 2011.

Docket Numbers: ER10–2785–003.

Applicants: Chevron Coalinga Energy Company.

Description: Chevron Coalinga Energy Company submits tariff filing per 35: Chevron Coalinga Energy Company Tariff to be effective 10/19/2010.

Filed Date: 10/20/2010.

Accession Number: 20101020–5155.

Comment Date: 5 p.m. Eastern Time on Thursday, December 30, 2010.

Docket Numbers: ER10–2786–003.

Applicants: Washington Gas Energy Services, Inc.

Description: Washington Gas Energy Services, Inc. submits tariff filing per 35: Washington Gas Energy Services Tariff to be effective 10/19/2010.

Filed Date: 10/20/2010.

Accession Number: 20101020–5156.

Comment Date: 5 p.m. Eastern Time on Thursday, December 30, 2010.

Docket Numbers: ER11–2325–000.

Applicants: California Pacific Electric Company, LLC.

Description: California Pacific Electric Company, LLC submits tariff filing per 35.1: Electric Service Agreement to be effective 12/31/1998.

Filed Date: 12/09/2010.

Accession Number: 20101209–5079.

Comment Date: 5 p.m. Eastern Time on Monday, December 20, 2010.

Docket Numbers: ER11–2326–000.

Applicants: Florida Power Corporation.

Description: Florida Power Corporation submits tariff filing per 35.13(a)(2)(iii): Rate Schedule No. 204 of Florida Power Corporation to be effective 12/9/2010.

Filed Date: 12/09/2010.

Accession Number: 20101209–5080.

Comment Date: 5 p.m. Eastern Time on Thursday, December 30, 2010.

Docket Numbers: ER11–2327–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii): WMPA No. 2704, Queue W2–071, CleanLight Energy, L.L.C. and PSE&G to be effective 11/9/2010.

Filed Date: 12/09/2010.

Accession Number: 20101209–5104.

Comment Date: 5 p.m. Eastern Time on Thursday, December 30, 2010.

Docket Numbers: ER11–2328–000.

Applicants: AEE2, L.L.C.

Description: AEE2, L.L.C. submits tariff filing per 35.1): AEE2 Rate Schedule No. 1 (Lease Agreement with AES ES Westover) to be effective 12/9/2010.

Filed Date: 12/09/2010.

Accession Number: 20101209–5105.

Comment Date: 5 p.m. Eastern Time on Thursday, December 30, 2010.

Docket Numbers: ER11–2329–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits tariff filing per 35.13(a)(2)(iii): 2010–12–09 Errata to CAISO's Service Agreement 1774 Blythe LGIA to be effective 12/9/2010.

Filed Date: 12/09/2010.

Accession Number: 20101209–5108.

Comment Date: 5 p.m. Eastern Time on Thursday, December 30, 2010.

Docket Numbers: ER11–2330–000.

Applicants: KCP&L Greater Missouri Operations Company.

Description: KCP&L Greater Missouri Operations Company submits tariff filing per 35: Formula Rate Implementation Filing to be effective 8/4/2010.

Filed Date: 12/09/2010.

Accession Number: 20101209–5134.

Comment Date: 5 p.m. Eastern Time on Thursday, December 30, 2010.

Docket Numbers: ER11–2331–000.

Applicants: Balance Power Systems, LLC.

Description: Balance Power Systems, LLC submits tariff filing per 35.12: InitialRev2 to be effective 2/6/2011.

Filed Date: 12/10/2010.

Accession Number: 20101210–5000.

Comment Date: 5 p.m. Eastern Time on Monday, January 03, 2011.

Docket Numbers: ER11–2332–000.

Applicants: UBS AG.

Description: UBS AG submits tariff filing per 35: Request for Category 1 Status in the Northwest Region to be effective 12/10/2010.

Filed Date: 12/10/2010.

Accession Number: 20101210–5102.

Comment Date: 5 p.m. Eastern Time on Monday, January 03, 2011.

Docket Numbers: ER11–2333–000.

Applicants: Bangor Hydro Electric Company.

Description: Bangor Hydro Electric Company submits tariff filing per 35.1: Bangor Hydro Interconnection Agreement PPL Maine to be effective 12/11/2010.

Filed Date: 12/10/2010.

Accession Number: 20101210–5103.

Comment Date: 5 p.m. Eastern Time on Monday, January 03, 2011.

Docket Numbers: ER11–2334–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): ATC Notice of Succession, Part I to be effective 2/9/2011.

Filed Date: 12/10/2010.

Accession Number: 20101210–5133.

Comment Date: 5 p.m. Eastern Time on Monday, January 03, 2011.

Docket Numbers: ER11–2334–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.17(b): (2) ATC Notice of Succession to be effective 2/9/2011.

Filed Date: 12/10/2010.

Accession Number: 20101210–5146.

Comment Date: 5 p.m. Eastern Time on Monday, January 03, 2011.

Docket Numbers: ER11–2334–002.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.17(b): (3) ATC Notice of Succession to be effective 2/9/2011.

Filed Date: 12/10/2010.

Accession Number: 20101210–5151.

Comment Date: 5 p.m. Eastern Time on Monday, January 03, 2011.

Docket Numbers: ER11–2335–000.

Applicants: Dynegy Services Plum Point, LLC.

Description: Dynegy Services Plum Point, LLC submits tariff filing per 35.13(a)(2)(iii): Plum Point Services FERC Electric Tariff No. 1 to be effective 12/10/2010.

Filed Date: 12/10/2010.

Accession Number: 20101210–5145.

Comment Date: 5 p.m. Eastern Time on Monday, January 03, 2011.

Docket Numbers: ER11–2336–000.

Applicants: Central Hudson Gas & Electric Corporation.

Description: Central Hudson Gas & Electric Corporation submits tariff filing per 35.13(a)(2)(iii): FERC Rate Schedule 202—Update to be effective 11/12/2010.

Filed Date: 12/10/2010.

Accession Number: 20101210–5160.

Comment Date: 5 p.m. Eastern Time on Monday, January 03, 2011.

Docket Numbers: ER11–2337–000.

Applicants: Otter Tail Power Company.

Description: Otter Tail Power Company submits tariff filing per 35.13(a)(2)(iii): Revisions to Transmission Capacity Exchange Agreement to be effective 12/1/2010.

Filed Date: 12/10/2010.

Accession Number: 20101210–5169.

Comment Date: 5 p.m. Eastern Time on Monday, January 03, 2011.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES11–10–000.

Applicants: Northwestern Corporation.

Description: Application of NorthWestern Corporation for Authorization to Issue Securities under Section 204 of the Federal Power Act and Request for Expedited Action.

Filed Date: 12/09/2010.

Accession Number: 20101209–5147.

Comment Date: 5 p.m. Eastern Time on Thursday, December 30, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be

listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–31834 Filed 12–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings No. 2

December 03, 2010.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP10–877–006.

Applicants: Cameron Interstate Pipeline, LLC.

Description: Cameron Interstate Pipeline, LLC submits tariff filing per 154.203: Cameron Interstate Pipeline Compliance Filing to be effective 1/1/2011.

Filed Date: 11/24/2010.

Accession Number: 20101124–5073.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 08, 2010.

Docket Numbers: RP10–744–001.

Applicants: Algonquin Gas Transmission, LLC.

Description: Algonquin Gas Transmission, LLC submits tariff filing per 154.203: Compliance Filing in RP10–744 to be effective 5/17/2010.

Filed Date: 12/03/2010.

Accession Number: 20101203–5015.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 15, 2010.

Docket Numbers: GP94–2–019.

Applicants: Columbia Gas Transmission, LLC.

Description: Columbia Gas Transmission, LLC Deferred Tax Refund Report.

Filed Date: 02/11/2010.

Accession Number: 20100211–5021.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 8, 2010.

Docket Numbers: RP05–422–037.

Applicants: El Paso Natural Gas Company.

Description: Supplemental 2008 Penalty Crediting Report of El Paso Natural Gas Company.

Filed Date: 11/30/2010.

Accession Number: 20101130–5141.

Comment Date: 5 p.m. Eastern Time on Friday, November 10, 2010.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before 5 p.m. Eastern time on the specified comment date. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive *e-mail* notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please *e-mail FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–31836 Filed 12–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

December 7, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2224–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. submits tariff filing per: Errata to NYISO Revised ICAP Demand Curve filing to be effective N/A.

Filed Date: 12/03/2010.

Accession Number: 20101203–5200.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 21, 2010.

Docket Numbers: ER11–2307–000.

Applicants: PacifiCorp.

Description: PacifiCorp submits tariff filing per 35.13(a)(2)(iii): BPA Two-way Operation and Maintenance Agreement to be effective 11/1/2010.

Filed Date: 12/07/2010.

Accession Number: 20101207–5113.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Docket Numbers: ER11–2308–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits Attachment AE of its Open Access Transmission Tariff, to be effective 2/6/2011.

Filed Date: 12/07/2010

Accession Number: 20101207–5114.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Docket Numbers: ER11–2309–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii): Formula Update—Midwest to be effective 9/1/2010.

Filed Date: 12/07/2010.

Accession Number: 20101207–5143.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to

be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–31839 Filed 12–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

December 7, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1820–001.

Applicants: Northern States Power Company, a Wisconsin corporation.

Description: Northern States Power Company, a Wisconsin corporation submits tariff filing per 35: 20100929 Compliance Filing Revising Baseline to be effective 7/20/2010.

Filed Date: 09/29/2010.

Accession Number: 20100929–5240.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Docket Numbers: ER11–2281–000.

Applicants: ISO New England Inc.

Description: Filing of ICR–Related Values for 2011/2012 and 2012/2013 Annual Reconfiguration Auctions.

Filed Date: 12/01/2010.

Accession Number: 20101201–5279.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 22, 2010.

Docket Numbers: ER11–2304–000.

Applicants: City of Banning, California.

Description: City of Banning, California submits tariff filing per 35.1: Baseline TO Tariff to be effective 12/7/2010.

Filed Date: 12/07/2010.

Accession Number: 20101207–5035.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Docket Numbers: ER11–2305–000.

Applicants: City of Anaheim, California.

Description: City of Anaheim, California submits tariff filing per 35.1: Baseline TO Tariff to be effective 12/7/2010.

Filed Date: 12/07/2010.

Accession Number: 20101207–5044.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Docket Numbers: ER11–2306–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii): SGIA & Service Agreement with Lucerne Solar to be effective 2/6/2011.

Filed Date: 12/07/2010.

Accession Number: 20101207–5112.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–31838 Filed 12–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

December 07, 2010.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP11–1542–000.

Applicants: Kinder Morgan Interstate Gas Transmission LLC.

Description: Kinder Morgan Interstate Gas Transmission LLC submits tariff filing per 154.204: Discount Type Adjustments for Negotiated Rates to be effective 12/24/2010.

Filed Date: 11/24/2010.

Accession Number: 20101124–5167.

Comment Date: 5 p.m. Eastern Time on Friday, December 10, 2010.

Docket Numbers: RP11–1594–000.

Applicants: Kern River Gas Transmission Company.

Description: Kern River Gas Transmission Company submits tariff filing per 154.203: 2010 Compliance Filing 12/03/2010 RP04–274 to be effective 8/19/2010.

Filed Date: 12/03/2010.

Accession Number: 20101203–5150.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 15, 2010.

Docket Numbers: RP11–1595–000.

Applicants: ANR Pipeline Company.

Description: ANR Pipeline Company submits tariff filing per 154.203: RP10–940 Compliance to be effective 9/30/2010.

Filed Date: 12/03/2010.

Accession Number: 20101203–5157.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 15, 2010.

Docket Numbers: RP11–1596–000.

Applicants: Questar Overthrust Pipeline Company.

Description: Questar Overthrust Pipeline Company submits tariff filing per 154.204: Negotiated Rate Filing WIC TSA No. 4228 to be effective 12/1/2010.

Filed Date: 12/03/2010.

Accession Number: 20101203–5171.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 15, 2010.

Docket Numbers: RP11–1597–000.

Applicants: Tennessee Gas Pipeline Company.

Description: Tennessee Gas Pipeline Company's Application for Abandonment and Request for Approval of Offer of Settlement.

Filed Date: 12/03/2010.

Accession Number: 20101203–5254.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 15, 2010.

Docket Numbers: RP11–1598–000.

Applicants: Steuben Gas Storage Company.

Description: Steuben Gas Storage Company submits its Baseline Electronic Tariff Compliance Filing, to be effective 12/6/2010.

Filed Date: 12/07/2010.

Accession Number: 20101207–5000.

Comment Date: 5 p.m. Eastern Time on Monday, December 20, 2010.

Docket Numbers: RP11–1599–000.

Applicants: Bobcat Gas Storage.

Description: Bobcat Gas Storage submits tariff filing per 154.204: LINK System Implementation to be effective. 3/1/2011.

Filed Date: 12/07/2010.

Accession Number: 20101207–5027.

Comment Date: 5 p.m. Eastern Time on Monday, December 20, 2010.

Docket Numbers: RP11–1600–000.

Applicants: Bobcat Gas Storage.

Description: Bobcat Gas Storage submits tariff filing per 154.204: Enhancement and Cleanup Changes to be effective 3/1/2011.

Filed Date: 12/07/2010.

Accession Number: 20101207–5050.

Comment Date: 5 p.m. Eastern Time on Monday, December 20, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and § 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–31837 Filed 12–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings No. 1

December 03, 2010.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP11–1589–000

Applicants: Southern Star Central Gas Pipeline Inc.

Description: Southern Star Central Gas Pipeline, Petition for Waiver of Missed ROFR Deadline.

Filed Date: 12/01/2010.

Accession Number: 20101201–5275.

Comment Date: 5 p.m. Eastern Time on Monday, December 13, 2010.

Docket Numbers: RP11–1590–000.

Applicants: CenterPoint Energy Gas Transmission Company.

Description: CenterPoint Energy Gas Transmission Company submits its Annual Sligo Lease LUFG Percentage Tracker Tariff Filing.

Filed Date: 12/01/2010.

Accession Number: 20101201–5280.

Comment Date: 5 p.m. Eastern Time on Monday, December 13, 2010.

Docket Numbers: RP11–1591–000.

Applicants: Golden Pass Pipeline LLC.

Description: Golden Pass Pipeline LLC submits Sheets 1–260, plus Title Sheet to FERC Gas Tariff, First Revised Volume No. 1 With Cross References to the Pro Forma, to be effective 2/1/2011.

Filed Date: 12/03/2010.

Accession Number: 20101203–5003.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 15, 2010

Docket Numbers: RP11–1592–000.

Applicants: Gulf Crossing Pipeline Company LLC.

Description: Gulf Crossing Pipeline Company LLC submits tariff filing per 154.204: Devon Amendment to Negotiated Rate Agmt to be effective 12/2/2010.

Filed Date: 12/03/2010.

Accession Number: 20101203–5028.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 15, 2010.

Docket Numbers: RP11–1593–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: Algonquin Gas Transmission, LLC submits tariff filing per 154.204: Con Ed 2010–12–01 Releases to be effective 12/1/2010.

Filed Date: 12/03/2010.

Accession Number: 20101203–5041.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 15, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

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Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–31835 Filed 12–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 3

December 7, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3043–001.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. submits tariff filing per 35: Compliance Filing—In-City Buyer Side Mitigation Measures to be effective N/A.

Filed Date: 12/07/2010.

Accession Number: 20101207–5118.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 14, 2010.

Docket Numbers: ER98–2640–035; *ER98–4590–033.*

Applicants: Northern States Power Companies.

Description: Change in Status Report filed by Xcel Energy Services Inc. on behalf of Northern States Power Company.

Filed Date: 12/07/2010.

Accession Number: 20101207–5150.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–31840 Filed 12–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

December 3, 2010.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC11–28–000.

Applicants: Duquesne Light Company, Duquesne Power, LLC, Duquesne Keystone LLC, Duquesne Conemaugh LLC, DUET Investment Holdings Limited, GIC Infra Holdings Pte Ltd.

Description: Application for Authorization Under Sections 203(A)(1) and 203(A)(2) of the Federal Power Act and Request for Expedited Action of Duquesne Light Company, *et al.*

Filed Date: 12/03/2010.

Accession Number: 20101203–5038.

Comment Date: 5 p.m. Eastern Time on Monday, December 27, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER99–4124–027.

Applicants: Arizona Public Service Company.

Description: Notice of Non-material Change in Status of Arizona Public Service Company.

Filed Date: 12/03/2010.

Accession Number: 20101203–5089.

Comment Date: 5 p.m. Eastern Time on Monday, December 27, 2010.

Docket Numbers: ER10–2746–003.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35: PJM submits an errata to PJM's Interregional Agreements re Midwest ISO–PJM JOA to be effective 9/17/2010.

Filed Date: 12/03/2010.

Accession Number: 20101203–5077.

Comment Date: 5 p.m. Eastern Time on Monday, December 27, 2010.

Docket Numbers: ER10–3158–001.

Applicants: Dillon Wind LLC.

Description: Dillon Wind LLC submits a compliance filing to incorporate the currently effective tariff language as accepted in the Category I Letter Order, to be effective 9/29/2010.

Filed Date: 12/03/2010.

Accession Number: 20101203–5000.

Comment Date: 5 p.m. Eastern Time on Monday, December 27, 2010.

Docket Numbers: ER10–3161–001.

Applicants: Shiloh I Wind Project, LLC.

Description: Shiloh I Wind Project, LLC submits tariff filing per 35: Baseline Compliance Filing, to be effective 9/29/2010.

Filed Date: 12/03/2010.

Accession Number: 20101203–5002.

Comment Date: 5 p.m. Eastern Time on Monday, December 27, 2010.

Docket Numbers: ER10–3162–001.

Applicants: Mountain View Power Partners III, LLC.

Description: Mountain View Power Partners III, LLC submits a compliance filing to incorporate the currently effective tariff language as accepted in the Category I Letter Order, to be effective 9/29/2010.

Filed Date: 12/03/2010.

Accession Number: 20101203–5001.

Comment Date: 5 p.m. Eastern Time on Monday, December 27, 2010.

Docket Numbers: ER10–3176–001.

Applicants: Gerdau Ameristeel Energy, Inc.

Description: Gerdau Ameristeel Energy, Inc. submits tariff filing per 35: Gerdau Ameristeel Baseline Filing to be effective 12/3/2010.

Filed Date: 12/03/2010.

Accession Number: 20101203–5049.

Comment Date: 5 p.m. Eastern Time on Monday, December 27, 2010.

Docket Numbers: ER10–3214–001.

Applicants: PH Glatfelter Company.

Description: PH Glatfelter Company submits tariff filing per 35: P.H. Glatfelter Company Baseline Filing to be effective 12/3/2010.

Filed Date: 12/03/2010.

Accession Number: 20101203–5050.

Comment Date: 5 p.m. Eastern Time on Monday, December 27, 2010.

Docket Numbers: ER11–2280–000.

Applicants: Sustainable Star.

Description: Sustainable Star submits tariff filing per 35.12: New Company's Tariff to be effective 12/12/2010.

Filed Date: 12/02/2010.

Accession Number: 20101202–5063.

Comment Date: 5 p.m. Eastern Time on Thursday, December 23, 2010.

Docket Numbers: ER11–2282–000.

Applicants: Sierra Pacific Power Company.

Description: Sierra Pacific Power Company submits tariff filing per 35.13(a)(2)(iii): Rate Schedule No. 61—Concurrence in CalPeco Rate Schedule No. 3 to be effective 12/31/2010.

Filed Date: 12/02/2010.

Accession Number: 20101202–5071.

Comment Date: 5 p.m. Eastern Time on Thursday, December 23, 2010.

Docket Numbers: ER11–2283–000.

Applicants: Sierra Pacific Power Company.

Description: Sierra Pacific Power Company submits tariff filing per 35.13(a)(2)(iii): Rate Schedule No. 62—Concurrence in CalPeco Rate Schedule No. 4 to be effective 12/31/2010.

Filed Date: 12/02/2010.

Accession Number: 20101202–5074.

Comment Date: 5 p.m. Eastern Time on Thursday, December 23, 2010.

Docket Numbers: ER11–2284–000.

Applicants: Fowler Ridge Wind Farm LLC.

Description: Fowler Ridge Wind Farm LLC submits tariff filing per 35: Compliance Filing to be effective 12/2/2010.

Filed Date: 12/02/2010.

Accession Number: 20101202–5079.

Comment Date: 5 p.m. Eastern Time on Thursday, December 23, 2010.

Docket Numbers: ER11–2285–000.

Applicants: Alabama Power Company.

Description: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii): Piedmont Green Power LGIA Amendment Filing to be effective 9/23/2010.

Filed Date: 12/02/2010.

Accession Number: 20101202–5117.

Comment Date: 5 p.m. Eastern Time on Thursday, December 23, 2010.

Docket Numbers: ER11–2286–000.

Applicants: Sustainable Star.

Description: Sustainable Star submits tariff filing per 35.12: New Company's Tariff to be effective 12/12/2010.

Filed Date: 12/02/2010.

Accession Number: 20101202–5122.

Comment Date: 5 p.m. Eastern Time on Thursday, December 23, 2010.

Docket Numbers: ER11–2287–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii): PJM submits Tariff and RAA revisions regarding Must Offer language to be effective 1/31/2011.

Filed Date: 12/02/2010.

Accession Number: 20101202–5125.

Comment Date: 5 p.m. Eastern Time on Thursday, December 23, 2010.

Docket Numbers: ER11–2288–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii): PJM submits Tariff and RAA revisions regarding Demand Response Saturation to be effective 2/1/2011.
Filed Date: 12/02/2010.
Accession Number: 20101202–5126.
Comment Date: 5 p.m. Eastern Time on Thursday, December 23, 2010.

Docket Numbers: ER11–2289–000.
Applicants: Sierra Pacific Power Company.
Description: Sierra Pacific Power Company submits revisions to Exhibit F of the General Transfer Agreement, Rate Schedule No. 27—with Bonneville Power Administration, to be effective 10/31/2010.
Filed Date: 12/03/2010.
Accession Number: 20101203–5004.
Comment Date: 5 p.m. Eastern Time on Monday, December 27, 2010.

Docket Numbers: ER11–2290–000.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits its compliance filing concerning one rate change to PG&E's Transmission Owner Tariff, to be effective 3/1/2011.
Filed Date: 12/03/2010.
Accession Number: 20101203–5005.
Comment Date: 5 p.m. Eastern Time on Monday, December 27, 2010.

Docket Numbers: ER11–2291–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii): Formula Rate Update—SPS to be effective 7/26/2010.
Filed Date: 12/03/2010.
Accession Number: 20101203–5048.
Comment Date: 5 p.m. Eastern Time on Monday, December 27, 2010.

Docket Numbers: ER11–2292–000.
Applicants: Brookfield Energy Marketing Inc.
Description: Brookfield Energy Marketing Inc. submits tariff filing per 35.13(a)(2)(iii): Brookfield Energy Marketing Inc. Market-Based Rate Tariff to be effective 12/4/2010.
Filed Date: 12/03/2010.
Accession Number: 20101203–5082.
Comment Date: 5 p.m. Eastern Time on Monday, December 27, 2010.

Docket Numbers: ER11–2293–000.
Applicants: Brookfield Energy Marketing US LLC.
Description: Brookfield Energy Marketing US LLC submits tariff filing per 35.13(a)(2)(iii): Brookfield Energy Marketing US LLC MBR Tariff to be effective 12/4/2010.
Filed Date: 12/03/2010.
Accession Number: 20101203–5083.
Comment Date: 5 p.m. Eastern Time on Monday, December 27, 2010.

Docket Numbers: ER11–2294–000.
Applicants: Brookfield Renewable Energy Marketing US.
Description: Brookfield Renewable Energy Marketing US LLC submits tariff filing per 35.13(a)(2)(iii): Brookfield Renewable Energy Marketing US LLC Market-Based Rate Tariff to be effective 12/4/2010.
Filed Date: 12/03/2010.
Accession Number: 20101203–5084.
Comment Date: 5 p.m. Eastern Time on Monday, December 27, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

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Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2010–31843 Filed 12–17–10; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

December 9, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER07–1106–009; ER08–1255–003; ER08–1255–004; ER10–566–001; ER10–566–002.
Applicants: ArcLight Energy Marketing, LLC, Oak Creek Wind Power, LLC, Coso Geothermal Power Holdings, LLC.
Description: Supplement to Updated Market Power Analysis for Southwest Region of Coso Geothermal Power Holdings, LLC, *et al.*
Filed Date: 12/08/2010.
Accession Number: 20101208–5126.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER08–394–028.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Report of Midwest Independent Transmission System Operator, Inc.
Filed Date: 12/08/2010.
Accession Number: 20101208–5203.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER08–394–029.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Report of Midwest Independent System Transmission Operator, Inc.
Filed Date: 12/08/2010.
Accession Number: 20101208–5208.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER10–2728–001.
Applicants: Green Valley Hydro, LLC.
Description: Green Valley Hydro, LLC submits tariff filing per 35: Green Valley Hydro Compliance Filing to be effective 12/8/2010.
Filed Date: 12/08/2010.
Accession Number: 20101208–5144.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER10–2729–001.
Applicants: Buchanan Generation, LLC.
Description: Buchanan Generation, LLC submits tariff filing per 35: Buchanan Generation Compliance Filing to be effective 12/8/2010.
Filed Date: 12/08/2010.
Accession Number: 20101208–5143.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER10–2808–001.
Applicants: Freeport-McMoRan Copper & Gold Energy Services, LLC.
Description: Freeport-McMoRan Copper & Gold Energy Services, LLC submits tariff filing per 35: FMES Revisions to Baseline FERC Electric MBR Volume No. 1 to be effective 9/21/2010.
Filed Date: 12/09/2010.
Accession Number: 20101209–5060.
Comment Date: 5 p.m. Eastern Time on Thursday, December 30, 2010.

Docket Numbers: ER11–2029–001.
Applicants: Cedar Creek II, LLC.
Description: Cedar Creek II, LLC submits tariff filing per 35.17(b): MBR Application of Cedar Creek II, LLC to be effective 12/16/2010.
Filed Date: 12/08/2010.
Accession Number: 20101208–5169.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 22, 2010.

Docket Numbers: ER11–2088–001.
Applicants: Border Energy Electric Services, Inc.
Description: Border Energy Electric Services, Inc. submits tariff filing per 35.17(b): Amendment to Filing of Border Energy Electric Services, Inc. to be effective 1/11/2011.
Filed Date: 12/08/2010.
Accession Number: 20101208–5132.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–2096–001.
Applicants: The Connecticut Light and Power Company.
Description: The Connecticut Light and Power Company submits a tariff filing per 35.17(b): Amended GenConn Localized Costs Responsibility Agreement to be effective 1/1/2011.
Filed Date: 12/08/2010.
Accession Number: 20101208–5112.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–2099–001.
Applicants: Public Service Company of New Hampshire.
Description: Public Service Company of New Hampshire submits tariff filing per 35.17(b): Amended Localized Costs Responsibility Agreement to be effective 1/1/2011.
Filed Date: 12/08/2010.
Accession Number: 20101208–5127.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–2100–001.
Applicants: Western Massachusetts Electric Company.
Description: Western Massachusetts Electric Company submits tariff filing per 35.17(b): Amended Localized Costs Responsibility Agreement to be effective 1/1/2011.
Filed Date: 12/08/2010.
Accession Number: 20101208–5155.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–2316–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii): LGIA Blythe Solar Power Project SA 97 to be effective 12/9/2010.
Filed Date: 12/08/2010.
Accession Number: 20101208–5157.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–2317–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii): Formula Update—OG&E, NPPD, ITC, SPS, Westar to be effective 1/1/2011.
Filed Date: 12/08/2010.
Accession Number: 20101208–5158.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–2318–000.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corporation submits tariff filing per 35.13(a)(2)(iii): 2010–12–08 CAISO's Service Agreement 1774, Non-Conforming LGIA to be effective 12/8/2010.
Filed Date: 12/08/2010.
Accession Number: 20101208–5175.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–2319–000.
Applicants: Idaho Power Company.
Description: Idaho Power Company SA 174 Notice of Termination Letter.
Filed Date: 12/08/2010.
Accession Number: 20101208–5202.
Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–2320–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): Service Agreement No. 1152 Niagara Mohawk and Lyonsdale to be effective 2/7/2010.
Filed Date: 12/09/2010.
Accession Number: 20101209–5037.
Comment Date: 5 p.m. Eastern Time on Thursday, December 30, 2010.

Docket Numbers: ER11–2321–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii): Revised Service Agreement for Wholesale Distribution Service SA No. 2 to be effective 2/8/2011.
Filed Date: 12/09/2010.
Accession Number: 20101209–5045.
Comment Date: 5 p.m. Eastern Time on Thursday, December 30, 2010.

Docket Numbers: ER11–2322–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii): LGIA Coram Brodie Wind Project SA 95 to be effective 12/10/2010.
Filed Date: 12/09/2010.
Accession Number: 20101209–5046.
Comment Date: 5 p.m. Eastern Time on Thursday, December 30, 2010.

Docket Numbers: ER11–2323–000.
Applicants: Athens Energy, LLC.
Description: Athens Energy, LLC submits tariff filing per 35.1: FERC Electric Tariff to be effective 12/9/2010.
Filed Date: 12/09/2010.
Accession Number: 20101209–5047.
Comment Date: 5 p.m. Eastern Time on Thursday, December 30, 2010.

Docket Numbers: ER11–2324–000.
Applicants: Kennebec River Energy, LLC.
Description: Kennebec River Energy, LLC submits tariff filing per 35.1: FERC Electric Tariff to be effective 12/9/2010.
Filed Date: 12/09/2010.
Accession Number: 20101209–5048.
Comment Date: 5 p.m. Eastern Time on Thursday, December 30, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on

or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–31842 Filed 12–17–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

December 8, 2010

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2589–001.

Applicants: Wisconsin Electric Power Company.

Description: Wisconsin Electric Power Company submits its Formula Rate Wholesale Sales Tariff Compliance Filing, FERC Electric Tariff Volume No 9, pursuant to Order No 714, to be effective 9/10/10.

Filed Date: 12/07/2010.

Accession Number: 20101207–5001.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Docket Numbers: ER10–2713–003.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35: Revisions to the PJM Rate Schedules to correct technical and ministerial errors to be effective 9/17/2010.

Filed Date: 12/07/2010.

Accession Number: 20101207–5109.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Docket Numbers: ER10–2785–004.

Applicants: Chevron Coalinga Energy Company.

Description: Chevron Coalinga Energy Company submits tariff filing per 35: Chevron Coalinga Energy Company Tariff to be effective 12/7/2010.

Filed Date: 12/08/2010.

Accession Number: 20101208–5002.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–1873–001.

Applicants: PJM Interconnection, L.L.C., Baltimore Gas and Electric Company.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.17(b): BG&E submits revisions to 1st Revised Service Agmt No. 871 for technical reasons to be effective 9/17/2010.

Filed Date: 12/08/2010.

Accession Number: 20101208–5001.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–2131–001.

Applicants: Entergy Arkansas, Inc.

Description: Entergy Arkansas, Inc. submits tariff filing per 35: MSS–3 Corrected Spindletop Compliance Filing to be effective 11/16/2010.

Filed Date: 12/07/2010.

Accession Number: 20101207–5167.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Docket Numbers: ER11–2132–001.

Applicants: Entergy Gulf States Louisiana, L.L.C.

Description: Entergy Gulf States Louisiana, L.L.C. submits tariff filing per 35: MSS–3 Corrected Spindletop Compliance Filing to be effective 11/16/2010.

Filed Date: 12/07/2010.

Accession Number: 20101207–5175.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Docket Numbers: ER11–2133–001.

Applicants: Entergy Louisiana, LLC.

Description: Entergy Louisiana, LLC submits tariff filing per 35: MSS–3 Corrected Spindletop Compliance Filing to be effective 11/16/2010.

Filed Date: 12/07/2010.

Accession Number: 20101207–5182.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Docket Numbers: ER11–2134–001.

Applicants: Entergy Mississippi, Inc.

Description: Entergy Mississippi, Inc. submits tariff filing per 35: MSS–3 Corrected Spindletop Compliance Filing to be effective 11/16/2010.

Filed Date: 12/07/2010.

Accession Number: 20101207–5191.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Docket Numbers: ER11–2135–001.

Applicants: Entergy New Orleans, Inc.

Description: Entergy New Orleans, Inc. submits tariff filing per 35: MSS–3 Corrected Spindletop Compliance Filing to be effective 11/16/2010.

Filed Date: 12/07/2010.

Accession Number: 20101207–5204.

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Docket Numbers: ER11–2310–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35: Compliance filing to incorporate previously approved revisions in Docket EL08–47 to be effective 10/26/2010.

Filed Date: 12/08/2010

Accession Number: 20101208–5000.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–2311–000.

Applicants: Freedom Logistics, LLC.

Description: Freedom Logistics, LLC submits tariff filing per 35.1: Freedom Logistics FERC Tariff to be effective 12/8/2010.

Filed Date: 12/08/2010.

Accession Number: 20101208–5020.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–2312–000.

Applicants: Electricity Maine, LLC.

Description: Electricity Maine, LLC submits tariff filing per 35.1: Electricity Maine FERC Tariff to be effective 12/8/2010.

Filed Date: 12/08/2010.

Accession Number: 20101208–5021.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–2313–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): G418 Termination to be effective 2/7/2011.

Filed Date: 12/08/2010.

Accession Number: 20101208–5039.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–2314–000.

Applicants: City of Pasadena, California.

Description: City of Pasadena, California submits tariff filing per 35.1:

Baseline TO Tariff to be effective 12/8/2010.

Filed Date: 12/08/2010.

Accession Number: 20101208–5056.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Docket Numbers: ER11–2315–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii): Revisions to Clarify Treatment of Load Under Grandfathered Agreements to be effective 12/9/2010.

Filed Date: 12/08/2010.

Accession Number: 20101208–5067.

Comment Date: 5 p.m. Eastern Time on Wednesday, December 29, 2010.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES11–9–000.

Applicants: ITC Midwest LLC.

Description: Application of ITC Midwest LLC under Section 204.

Filed Date: 12/07/2010.

Accession Number: 20101207–5210..

Comment Date: 5 p.m. Eastern Time on Tuesday, December 28, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

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Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–31841 Filed 12–17–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0128; FRL–8852–6]

Tetrahydro-3, 5-dimethyl-2H-1, 3, 4-thiadiazine-2-thione; Amendment To Terminate and or Delete Certain Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the amendment to terminate and/or delete certain uses, voluntarily requested by the registrant and accepted by the Agency, of the products, listed in Table 1, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This order follows a September 10, 2010 **Federal Register** Notice of Receipt of Request from the registrant listed in Table 2 to voluntarily amend their tetrahydro-3, 5-dimethyl-2*H*-1, 3, 4-thiadiazine-2-thione (Dazomet) product registrations to terminate or delete one or more uses. The request would terminate the uses listed in Table 1 of Unit II. The request would delete the uses listed in Table 2 of Unit II. The request would not terminate the last tetrahydro-3, 5-dimethyl-2*H*-1, 3, 4-thiadiazine-2-thione products registered for use in the United States and would result in retention of some registered uses for those products. In the September 10, 2010 notice, EPA indicated that it would issue an order implementing the amendments to terminate uses, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrant withdrew their request within this period. The Agency did not receive any comments on the notice. Further, the registrant did not withdraw their request. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested amendment to terminate uses. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The order is effective December 20, 2010.

FOR FURTHER INFORMATION CONTACT: Abigail Downs, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; *telephone number:* (703) 305– 5259; *e-mail address: downs.abigail@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2005–0128. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov,* or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. What action is the agency taking?

This notice announces the amendment to terminate and or delete

certain uses, as requested by the registrant, of products registered under section 3 of FIFRA. These registrations are listed in sequence by registration number, product name, and uses to be terminated in Table 1 of this unit, and uses to be deleted in Table 2 of this unit.

TABLE 1—TETRAHYDRO-3, 5-DIMETHYL-2H-1, 3, 4-THIADIAZINE-2-THIONE; AMENDMENT TO TERMINATE CERTAIN USES

Registration No.	Product name	Uses to be terminated
67869–18	N521 Technical	Air washer systems; eating establishments; Hospitals and related institutions; commercial institutions; institutional and industrial areas/premises; swimming pool water systems; household or domestic dwelling contents; irrigation systems.
67869–46	VeriGuard OD	Metal Working Fluids.

TABLE 2—TETRAHYDRO-3, 5-DIMETHYL-2H-1, 3, 4-THIADIAZINE-2-THIONE; AMENDMENT TO DELETE CERTAIN USES

Registration No.	Product name	Use to be deleted
67869–18	N521 Technical	Evaporated condenser water systems.

Table 3 of this unit includes the name and address of record for the registrant of the products in Tables 1 and 2 of this unit.

TABLE 3—REGISTRANT OF AMENDED PRODUCT

EPA Company No.	Company name and address
67869	Verichem, Inc., 3499 Grand Avenue, Pittsburgh, PA 15225.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the September 10, 2010 **Federal Register** notice (75 FR 55327) announcing the Agency's receipt of the request to voluntarily amend registrations to terminate certain uses of products listed in Table 1.

IV. Cancellation Order

Pursuant to FIFRA section 6(f), EPA hereby approves the requested amendment to terminate uses of tetrahydro-3, 5-dimethyl-2*H*-1,3,4-thiadiazine-2-thione registrations identified in Table 1 of Unit II and delete uses of tetrahydro-3, 5-dimethyl-2*H*-1,3,4-thiadiazine-2-thione registrations identified in Table 2 of Unit II. Accordingly, the Agency orders that the product registrations identified in Table 1 of Unit II are hereby amended to terminate the affected uses, also listed in Table 1. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II. in a manner inconsistent with any of the Provisions for Disposition of Existing Stocks set forth in Unit VI. will be considered a violation of FIFRA.

V. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA, further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the Administrator may approve such a request.

VI. Provisions for disposition of existing stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the action. The existing stocks provision for the products subject to this order is as follows.

Once EPA has approved product labels reflecting the requested amendments to delete uses, registrants will be permitted to sell or distribute products under the previously approved labeling for a period of 18 months after the date of **Federal Register** publication of the cancellation order, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the deleted uses identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of products whose labels include the deleted uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, products bearing the deleted uses.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: November 30, 2010.

Joan Harrigan-Farrelly,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. 2010–31875 Filed 12–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9240–7]

Clean Air Act Advisory Committee (CAAAC): Notice of Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of Meeting.

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990, to provide independent advice and counsel to EPA on policy issues associated with implementation of the Clean Air Act of 1990. The Committee advises on economic, environmental, technical scientific, and enforcement policy issues.

DATES AND ADDRESSES: Open meeting notice; Pursuant to 5 U.S.C. App. 2 Section 10(a)(2), notice is hereby given that the Clean Air Act Advisory Committee will hold their next open meeting on Wednesday, January 12, 2011 from 8 a.m. to 4 p.m. at the Crowne Plaza at National Airport, located at 1489 Jefferson Davis Highway in Arlington, Virginia. Seating will be available on a first come, first served basis. The Economic Incentives and

Regulatory Innovations subcommittee will meet on Tuesday, January 11, 2011 from 8:30 a.m. to 12 p.m. The Permits, New Source Reviews and Toxics subcommittee will meet on Tuesday, January 11, 2011 from approximately 12:45 p.m. to 5 p.m. The meetings will also be held at the Crown Plaza at National Airport, in Arlington, Virginia. The agenda for the CAAAC full committee meeting on January 12, 2011 will be posted on the Clean Air Act Advisory Committee Web site at *http://www.epa.gov/oar/caaac/.*

Inspection of Committee Documents: The Committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Thereafter, these documents, together with CAAAC meeting minutes, will be available by contacting the Office of Air and Radiation Docket and requesting information under docket OAR–2004–0075. The Docket office can be reached by e-mail at: *a-and-r-Docket@epa.gov* or FAX: 202–566–9744.

FOR FURTHER INFORMATION CONTACT: Concerning the CAAAC, please contact Pat Childers, Office of Air and Radiation, U.S. EPA (202) 564–1082, FAX (202) 564–1352 or by mail at U.S. EPA, Office of Air and Radiation (Mail code 6102 A), 1200 Pennsylvania Avenue, NW., Washington, DC 20004. For information on the Subcommittees, please contact the following individuals: (1) Permits/NSR/Toxics—Liz Naess, (919) 541–1892; (2) Economic Incentives and Regulatory Innovations—Carey Fitzmaurice, (202) 564–1667; and (3) Mobile Source Technical Review—Liz Etchells, (202) 564–1372. Additional Information on these meetings, CAAAC, and its Subcommittees can be found on the CAAAC Web site: *http://www.epa.gov/oar/caaac/.*

For information on access or services for individuals with disabilities, please contact Mr. Pat Childers at (202) 564–1082 or *childers.pat@epa.gov.* To request accommodation of a disability, please contact Mr. Childers, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: December 14, 2010.

Pat Childers,

Designated Federal Official, Clean Air Act Advisory Committee, Office of Air and Radiation.

[FR Doc. 2010–31919 Filed 12–17–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9241–3]

Official Release of the MOVES2010a and EMFAC2007 Motor Vehicle Emissions Models for Transportation Conformity Hot-Spot Analyses and Availability of Modeling Guidance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: This Notice announces the availability of two new EPA guidance documents for: completing quantitative particulate matter ($PM_{2.5}$ and PM_{10}) hot-spot analyses using EPA's Motor Vehicle Emissions Simulator model (MOVES), California's EMission FACtor model (EMFAC), and other models, and completing project-level carbon monoxide (CO) analyses using MOVES. These guidance documents will assist practitioners with implementing MOVES, EMFAC, air quality models, and applicable requirements.

EPA is approving the latest version of the MOVES model (MOVES2010a) for official use for quantitative CO, $PM_{2.5,}$ and PM_{10} hot-spot analyses outside of California. This notice also announces a two-year grace period before the MOVES2010a emissions model is required to be used in quantitative CO and PM hot-spot analyses for project-level conformity determinations outside California.

EPA is also approving the latest version of the EMFAC model (EMFAC2007) for quantitative PM hot-spot analyses for transportation conformity purposes within California.[1] This notice announces a two-year grace period before EMFAC2007 is required to be used for quantitative PM hot-spot analyses for project-level conformity determinations in California. While EPA is approving the MOVES2010a and EMFAC2007 models today for project-level transportation conformity purposes, this notice is applicable to current and future versions of the MOVES and EMFAC models, unless EPA notes otherwise when approving the models for conformity purposes.

DATES: EPA's approval of the MOVES2010a and EMFAC2007 emissions models is effective December 20, 2010. Today's approval also starts a two-year transportation conformity grace period that ends on December 20, 2012, after which:

- MOVES2010a (outside of California) is required to be used for new quantitative CO, PM_{10}, and $PM_{2.5}$ hot-spot analyses for transportation conformity purposes; and
- EMFAC2007 (within California) is required to be used for new PM_{10} and $PM_{2.5}$ hot-spot analyses for transportation conformity purposes.

These models can also be used during the grace period, as described further in this notice.

FOR FURTHER INFORMATION CONTACT: For questions regarding the official release of MOVES2010a for quantitative CO, $PM_{2.5}$, and PM_{10} hot-spot analyses, contact Meg Patulski at *patulski.meg@epa.gov,* (734) 214–4842, Transportation and Regional Programs Division, Office of Transportation and Air Quality, EPA, 2000 Traverwood Road, Ann Arbor, MI 48105. For questions regarding the official release of EMFAC2007 for quantitative $PM_{2.5}$ and PM_{10} hot-spot analyses in California, contact Karina O'Connor at *oconnor.karina@epa.gov,* (775) 833–1276, Air Planning Office (AIR–2), Air Division, EPA, Region 9, 75 Hawthorne Street, San Francisco, CA, 94105–3901. Technical questions about completing emissions and air quality modeling for CO and PM hot-spot analyses can also be sent to *conformity-hotspot@epa.gov.*

SUPPLEMENTARY INFORMATION:

The contents of this notice are as follows:

I. Background

A. What is transportation conformity?

Transportation conformity is a Clean Air Act (CAA) requirement to ensure that Federally supported highway and transit activities are consistent with ("conform to") the State air quality implementation plan (SIP). Conformity to a SIP means that a transportation activity will not cause or contribute to new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards (NAAQS) or any interim milestone. EPA's transportation conformity regulations (40 CFR Parts 51.390 and 93) describe how Federally funded and approved highway and transit projects meet these statutory requirements.

B. Hot-Spot Analyses

A hot-spot analysis in the context of transportation conformity is defined at 40 CFR 93.101 as an estimation of likely future localized pollutant concentrations and a comparison of those concentrations to the relevant

[1] EPA previously approved EMFAC2007 for quantitative CO hot-spot analyses in California.

NAAQS. A hot-spot analysis assesses the air quality impacts on a scale smaller than an entire nonattainment or maintenance area, including, for example, congested highways or transit terminals. Such an analysis of the area substantially affected by the project is a means of demonstrating that statutory requirements are met for the relevant NAAQS in the project area. When a hot-spot analysis is required, it is included within a project-level conformity determination.

Sections 93.116 and 93.123 of the conformity rule contain the requirements for when a CO, PM_{10}, or $PM_{2.5}$ hot-spot analysis is required for a project-level conformity determination. In CO nonattainment and maintenance areas, a hot-spot analysis is required for all Federal non-exempt projects, with quantitative hot-spot analyses being required for congested and high volume intersections and other projects (40 CFR 93.123(a)(1)).

The conformity rule requires a hot-spot analysis for only a subset of all Federal non-exempt highway and transit projects in PM nonattainment and maintenance areas (40 CFR 93.123(b)(1)), such as new or expanded highway or transit projects with significant increases in diesel traffic. However, unlike CO hot-spot analyses, to date only qualitative PM hot-spot analyses have been required.[2] Section 93.123(b) states that the requirement to conduct quantitative analyses for PM does not take effect until EPA releases modeling guidance on the subject and announces in the **Federal Register** that these requirements are in effect.

Today's notice announces the availability of such final modeling guidance: "Transportation Conformity Guidance for Quantitative Hot-Spot Analyses in $PM_{2.5}$ and PM_{10} Nonattainment and Maintenance Areas" (EPA–420–B–10–040). This guidance describes conformity requirements for quantitative PM hot-spot analyses; provides technical guidance on estimating project emissions using EPA's MOVES model, California's EMFAC model, and other methods; outlines how to apply air quality dispersion models for quantitative PM hot-spot analyses; and includes other resources and examples to assist in conducting quantitative PM hot-spot modeling analyses. EPA has coordinated with the Department of Transportation (DOT) in developing this final guidance.

In addition, EPA stated in the preamble to the March 10, 2006 final conformity rule that finalizing the MOVES emissions model was critical before quantitative PM hot-spot analyses could be required, due to the limitations of applying MOBILE6.2 for PM at the project level.[3] With today's notice approving MOVES2010a and EMFAC2007 for quantitative PM hot-spot analyses (*see* Sections II and III) and the release of associated modeling guidance (*see* Section IV.A), the requirement to conduct quantitative PM hot-spot analyses as required by 40 CFR 93.123(b)(4) is now in effect, subject to the conformity grace period for using new emissions models for such analyses.

C. Latest Emissions Models and Hot-Spot Analyses

CAA section 176(c)(1) states that "* * * [t]he determination of conformity shall be based on the most recent estimates of emissions, and such estimates shall be determined from the most recent population, employment, travel, and congestion estimates. * * *" The transportation conformity rule (40 CFR 93.111) requires that conformity analyses be based on the latest motor vehicle emissions model approved by EPA.

The conformity rule states that EPA will consult with the DOT to establish a grace period following the specification of any new emissions model. The rule further provides for a grace period for new emissions models of between 3–24 months, to be established by notification in the **Federal Register** (40 CFR 93.111(b)).

In consultation with DOT, EPA must consider various factors when establishing a grace period for conformity determinations, including the degree of change in emissions models and the effects of the new model on the transportation planning process (40 CFR 93.111(b)(2)).

The conformity rule provides some flexibility for hot-spot analyses that are started before the end of a grace period. A conformity determination for a transportation project may be based on a previous model if the analysis was begun before or during the grace period, and if the final environmental document for the project is issued no more than three years after the issuance of the draft environmental document (40 CFR 93.111(c)).

II. Using MOVES at the Project Level

A. What is MOVES?

MOVES is EPA's state-of-the-art, upgraded model for estimating emissions from cars, trucks, motorcycles, and buses. MOVES is based on an analysis of millions of emission test results and considerable advances in the Agency's understanding of vehicle emissions. EPA released MOVES2010 in December 2009, and then released minor updates to the model in the MOVES2010a version in August 2010.[4]

On March 2, 2010, EPA approved the use of MOVES2010 in official SIP submissions to EPA and for certain transportation conformity analyses outside of California (75 FR 9411). The March 2010 approval also applies to the MOVES2010a version for SIPs and regional conformity analyses.[5] However, until today, EPA has not approved any version of MOVES for project-level CO and PM analyses, since project-level MOVES guidance documents were not yet available.[6]

B. Using MOVES2010a for Quantitative CO, $PM_{2.5}$ and PM_{10} Hot-Spot Analyses

In today's notice, EPA is approving MOVES2010a as EPA's official motor vehicle emissions factor model for project-level CO and PM analyses outside of California. EPA is also establishing a two-year grace period for using MOVES2010a for quantitative CO and PM hot-spot analyses for project-level conformity determinations, as described further below. This conformity grace period begins today and ends December 20, 2012. Future updates to the MOVES2010a model will not start a new conformity grace period for quantitative CO and PM hot-spot analyses unless EPA notes otherwise.[7]

In deciding the length of the MOVES2010a conformity grace period, EPA consulted with DOT and considered the degree of change in the model and the scope of re-planning likely to be necessary for project development, pursuant to 40 CFR 93.111(b). EPA understands that

[2] For more information on qualitative PM hot-spot analyses, *see* EPA and FHWA's joint "Transportation Conformity Guidance for Qualitative Hot-spot Analyses in $PM_{2.5}$ and PM_{10} Nonattainment and Maintenance Areas" (EPA–420–B–06–902, March 2006).

[3] *See* EPA's March 2006 final conformity rule for further information (71 FR 12498–12502).

[4] *See* the EPA document: "EPA Releases MOVES2010a Mobile Source Emissions Model Update: Questions and Answers" (EPA–420–F–10–050, August 2010) at: *http://www.epa.gov/otaq/models/moves/index.htm#generalinfo.*

[5] EPA has said that it is not considering MOVES2010a a new emissions model for SIPs and regional conformity analyses under 40 CFR 93.111. The MOVES2010 grace period for regional conformity analyses (which began on March 2, 2010) applies to the use of MOVES2010a as well.

[6] Also *see* the March 2, 2010 **Federal Register** notice (75 FR 9413–9414).

[7] EPA may provide minor, periodic updates to the MOVES model in order to improve its functionality and performance.

numerous areas will be required to conduct quantitative hot-spot analyses using MOVES, and sufficient time must be allowed for State and local agencies to obtain the necessary training and otherwise prepare to use MOVES for these analyses. The following paragraphs elaborate further on the factors that were considered in establishing the maximum two-year conformity grace period for hot-spot analyses with MOVES.

First, EPA considered the time it will take State and local transportation and air quality agencies to conduct and provide technical support for quantitative hot-spot analyses. As described in EPA's new modeling guidance documents (*see* Section IV), there are several steps involved in a quantitative PM hot-spot analysis and for applying MOVES for CO hot-spot analyses, and a significant amount of instruction will be necessary for these agencies to understand the context for applying MOVES for these analyses.

Second, State and local agencies will need to become familiar with the MOVES emissions model. Agencies need to understand how to configure and run MOVES at the project level for a variety of different types of projects. The MOVES generation of models is not merely an upgrade of the previous MOBILE model using more recent emissions data; it involves brand-new software, designed from the ground up to estimate emissions at a more detailed level. MOVES output will also need to be prepared for use in recommended air quality models. This will require many project sponsors to obtain training in the use of these air quality models, which are being applied for the first time for localized PM analyses of transportation projects.

EPA will work with DOT to develop and provide training to address these concerns, including:

- General and detailed overviews of the project-level guidance documents described in Section IV of this notice.
- Technical training for applying MOVES at the project level consistent with the guidance documents being released today.
- Technical training for using recommended air quality models in accordance with EPA's guidance and regulations.

All of these courses are anticipated to be provided in the form of webinars, other Web-based courses, conference seminars, or in-person training. Courses will be developed to address different levels of State and local expertise as well as different roles and responsibilities for agencies involved.[8]

EPA and DOT intend to maximize training opportunities given available resources and allow sufficient time so that State and local agencies become trained. Following training, additional time will also be needed to gain experience applying guidance and models for real-world situations.

EPA also considered the need to collect and prepare data required to run MOVES at the project level. To take advantage of the full modeling capabilities of MOVES, those conducting hot-spot analyses will generally need to be collecting or generating data specific to individual projects, and some project-level data may not readily be available. Also, the data will need to be entered on the basis of individual "links" to capture vehicle activity occurring on a specific project.

Finally, EPA considered the general time and monetary resource constraints in which State and local agencies currently operate. These agencies need to participate in EPA and DOT training and possibly provide training to other individuals in their offices. Many agencies will be implementing the transition to PM and CO hot-spot analyses with MOVES for projects in several nonattainment and maintenance areas, with each analysis involving multiple State and local agencies.

C. Implementation of the Conformity Grace Period

EPA has previously described how the conformity grace period for CO and PM hot-spot analyses will be implemented in the policy guidance for applying MOVES2010a for these purposes.[9] For CO hot-spot analyses outside California that are started during the two-year grace period, project sponsors can choose to use either MOBILE6.2 or MOVES2010a. EPA encourages sponsors to use the interagency consultation process to determine which option may be most appropriate for a given situation. Any new quantitative CO hot-spot analyses for conformity purposes begun after the end of the grace period must use MOVES2010a.

For PM hot-spot analyses, project sponsors can continue to conduct qualitative PM hot-spot analyses for analyses that are started during the grace period (40 CFR 93.111(c)).[10] Quantitative PM hot-spot analyses can also be completed for conformity purposes during the grace period, if desired. However, any quantitative PM hot-spot analyses conducted during the grace period must use MOVES2010a, since MOBILE6.2 does not have the capabilities to produce viable results for project-level PM emissions analyses and is therefore not appropriate for this purpose.[11] Any quantitative PM hot-spot analysis for conformity purposes begun after the end of the grace period must use MOVES2010a. The interagency consultation process should be used if it is unclear if a previous analysis was begun before the end of the grace period. If you have questions about which model should be used in your conformity determination, you can also consult with your EPA Regional Office.

D. Availability of MOVES2010a and Support Materials

Copies of the official version of the MOVES2010a model, along with user guides and supporting documentation, are available on EPA's MOVES Web site: *http://www.epa.gov/otaq/models/moves/index.htm.*

Guidance on how to apply the MOVES model for transportation conformity purposes can be found on EPA's transportation conformity Web site at: *http://www.epa.gov/otaq/stateresources/transconf/policy.htm.* EPA will continue to update this Web site as other MOVES support materials and guidance are developed. *See* Section IV for further information on the availability of new guidance about using MOVES to estimate project-level emissions. This guidance applies for MOVES2010a and future versions of the MOVES model unless EPA notes otherwise.

Individuals who wish to receive EPA announcements related to the MOVES model can subscribe to the EPA–MOBILENEWS e-mail listserver. For more information about subscribing to the EPA–MOBILENEWS listserver, visit EPA's Web site at *http://www.epa.gov/otaq/models/mobilelist.htm.*

[8] For example, Section 2.9 of the final quantitative PM hot-spot guidance describes the different roles and responsibilities for Federal, State, and local agencies for these analyses.

[9] *See* Questions 10 and 13 in EPA's "Policy Guidance on the Use of MOVES2010 for State Implementation Plan Development, and Other Purposes," (EPA–420–B–09–046, December 2009) at: *http://www.epa.gov/otaq/models/moves/420b09046.pdf.* Areas outside of California should refer to Section III on using EMFAC for PM hot-spot analyses.

[10] Since previous emissions models have not been approved in the past for quantitative PM hot-spot analyses, a qualitative PM analysis is considered "the previous version of the model" for the purposes of 40 CFR 93.111(c).

[11] *See* EPA's March 2006 final rule for further information (71 FR 12498–12502).

III. Using EMFAC at the Project Level

A. What is EMFAC?

The EMFAC model is a computer model developed by the California Air Resources Board (CARB) to estimate emission rates for on-road mobile sources operating in California for calendar years 1970 to 2040. The latest version of this model is EMFAC2007, and EPA approved this version of the model for SIP development in California and for most transportation conformity analyses (*i.e.,* all regional emissions analyses and CO hot-spot analyses) on January 18, 2008 (73 FR 3464). However, EMFAC2007 was not approved for quantitative $PM_{2.5}$ and PM_{10} hot-spot analyses at that time.

As stated in the January 2008 notice, EPA believed that modeling guidance would be necessary before quantitative PM hot-spot analyses could be required.[12] With the release of EPA's PM hot-spot guidance, we can approve EMFAC2007 for quantitative PM hot-spot analyses.

B. Using EMFAC2007 for Quantitative $PM_{2.5}$ and PM_{10} Hot-Spot Analyses

Today's notice approves EMFAC2007 for project-level $PM_{2.5}$ and PM_{10} analyses in California. This notice also establishes a two-year grace period for using EMFAC2007 for quantitative PM hot-spot analyses for project-level conformity determinations. This grace period begins today and ends December 20, 2012. Future updates to the EMFAC2007 model will not start a new conformity grace period for quantitative PM hot-spot analyses unless EPA notes otherwise.

EPA consulted with DOT on the appropriate length of the conformity grace period for EMFAC2007 and considered the start-up factors described in 40 CFR 93.111(b). EPA considered how many PM areas are affected by this transition to quantitative PM hot-spot analyses and that sufficient time must be allowed for State and local agencies for all areas subject to this new requirement to obtain the necessary training and planning to apply EMFAC in California. More details on the factors considered are included below, and many are similar to those discussed in Section II for establishing the MOVES grace period.

EPA considered the time it will take State and local agencies in California to conduct and provide technical support for quantitative PM hot-spot analyses. These agencies will also need to become familiar with applying EMFAC2007 at the project level for PM, since the model is currently not applied in the "project-level mode" when developing inventories for PM SIPs or regional conformity analyses. These agencies will also need to learn how to prepare EMFAC outputs for recommended air quality models that are currently not used for transportation projects.

As described in Section II.B, EPA is working with DOT to develop and provide new training courses on EPA's quantitative PM hot-spot guidance, as well as technical training for air quality modeling. EPA and DOT will be working with California agencies on State and local agency training for using EMFAC for quantitative PM hot-spot analyses. Training opportunities will be based on available resources and consider budgetary and other constraints.

In addition to training needs, EPA also considered the data collection and preparation for using EMFAC for quantitative PM hot-spot analyses. For example, project sponsors will need to obtain project-specific fleet data (as opposed to using EMFAC fleet data for regional inventories). EMFAC contains fleet data for each nonattainment and maintenance area in California which are used in the model as "defaults" for fleet characteristics used in SIPs and regional conformity analyses. However, these defaults will not be appropriate for use as-is in PM hot-spot analyses; project sponsors will need to make additional effort to obtain fleet information for the specific project area covered by the PM hot-spot analysis.

Finally, as with the transition to using MOVES, EPA considered the time required for individuals to participate in future training courses, the time to learn to apply the guidance and models after training, and other constraints affecting California agencies. For example, State agencies will be charged with preparing and supporting quantitative PM hot-spot analyses for many projects across the State, which has eleven PM_{10} and seven $PM_{2.5}$ metropolitan nonattainment and maintenance areas, as well as isolated rural PM areas.

C. Implementation of the Conformity Grace Period

EPA has previously described how the conformity grace period for PM hot-spot analyses will be implemented.[13] For PM hot-spot analyses, project sponsors can continue to conduct qualitative PM hot-spot analyses for analyses that are started during the grace period (40 CFR 93.111(c)).[14] Quantitative PM hot-spot analyses can also be completed for conformity purposes during the grace period, if desired. However, any quantitative PM hot-spot analyses conducted for conformity purposes during the grace period, or begun after the end of the grace period, must use EMFAC2007. The interagency consultation process should be used if it is unclear if a previous analysis was begun before the end of the grace period. If you have questions, you can consult the EPA Region 9 person listed in For Further Information Contact, above.

D. Availability of EMFAC and Support Materials

Copies of the official version of the EMFAC2007 model are available on CARB's Web site: *http://www.arb.ca.gov/msei/onroad/latest_version.htm.* This Web site also contains technical support documentation for the development of EMFAC2007 as well as other related documents.

Policy guidance on how to apply the EMFAC model for transportation conformity purposes can be found on EPA's transportation conformity Web site at: *http://www.epa.gov/otaq/stateresources/transconf/policy.htm. See* Section IV.A for further information on the availability of new guidance which articulates how to estimate PM project-level emissions using EMFAC. This guidance applies for EMFAC2007 and future versions of the EMFAC model unless EPA notes otherwise.

IV. Availability of Modeling Guidance

A. Guidance for Quantitative PM Hot-Spot Analyses

Today's notice also announces the availability of the final guidance document: "Transportation Conformity Guidance for Quantitative Hot-Spot Analyses in $PM_{2.5}$ and PM_{10} Nonattainment and Maintenance Areas" (EPA–420–B–10–040). This guidance, a fact sheet, and other documentation are available online at the EPA Web site: *http:/www.epa.gov/otaq/stateresources/transconf/policy.htm.* As described in Sections II and III, EPA and DOT will provide outreach and training for using this guidance.

This guidance describes conformity requirements for quantitative PM hot-spot analyses; provides technical

[12] *See* Section II.C of the January 2008 notice for further information (73 FR 3466).

[13] *See* Question 15 in EPA's "Policy Guidance on the Use of MOVES2010 for State Implementation Plan Development, and Other Purposes," (EPA–420–B–09–046, December 2009) at: *http://www.epa.gov/otaq/models/moves/420b09046.pdf.*

[14] Since previous emissions models have not been approved in the past for quantitative PM hot-spot analyses, a qualitative PM analysis is considered "the previous version of the model" for the purposes of 40 CFR 93.111(c).

guidance on estimating project emissions using EPA's MOVES model, California's EMFAC model, and other methods; and outlines how to apply air quality dispersion models for quantitative PM hot-spot analyses. The guidance also discusses how to calculate design values for comparison to each PM NAAQS, as well as how to determine which air quality modeling receptors may or may not be appropriate for PM hot-spot analyses.[15] The guidance also describes how the interagency consultation process should be used to develop quantitative hot-spot analyses in PM nonattainment and maintenance areas. In addition, the guidance includes other resources and examples to assist in conducting quantitative PM hot-spot modeling analyses. However, the guidance does not change transportation conformity rule requirements for PM hot-spot analyses, such as what types of projects are subject to these analyses. EPA notes that this guidance helps implement existing CAA and transportation conformity requirements and is not a regulation. In addition, certain sections of this guidance may be applicable when completing air quality analyses for transportation projects for purposes other than transportation conformity. EPA has coordinated with the DOT in developing this final guidance.

A draft of this guidance was made available for public comment on May 26, 2010, with a closing date of July 19, 2010 (75 FR 29537–29538). EPA received 15 sets of comments on the draft guidance and considered these comments when developing the final document.

As discussed in Section I, the conformity rule requires EPA to release guidance on how to conduct quantitative PM hot-spot analyses prior to announcing that the requirement to conduct such analyses is in effect (40 CFR 93.123(b)(4)). This regulatory requirement is met with today's release of this final quantitative PM hot-spot modeling guidance, as described in this notice. The qualitative PM hot-spot requirements under 40 CFR 93.123(b)(2) will no longer apply in any $PM_{2.5}$ and PM_{10} nonattainment and maintenance areas once the grace period is over and quantitative requirements are in effect. At that time, the 2006 EPA/FHWA qualitative PM hot-spot guidance will be superseded by EPA's quantitative PM hot-spot guidance for these analyses.

B. Guidance for Using MOVES in Project-Level CO Analyses

EPA is also releasing today the final guidance document: "Using MOVES in Project-Level Carbon Monoxide Analyses" (EPA–420–B–10–041). The purpose of this guidance is to describe how to use MOVES to estimate CO emissions from highway and transit projects in States other than California. This guidance is available online at the EPA Web site: *http://www.epa.gov/otaq/stateresources/transconf/policy.htm.* EPA coordinated with DOT in developing this guidance.

This guidance can be applied when using MOVES to complete any quantitative CO project-level analysis, including: CO hot-spot analyses for transportation conformity determinations, localized SIP modeling, and CO project-level analyses completed pursuant to the National Environmental Policy Act. EPA and DOT will provide outreach and training for using this guidance.

Dated: December 14, 2010.

Margo Tsirigotis Oge,

Director, Office of Transportation and Air Quality.

[FR Doc. 2010–31909 Filed 12–17–10; 8:45 am]

BILLING CODE 6560–50–P

[15] EPA stated in the March 2006 final rule that the PM hot-spot modeling guidance would "consider how projects of air quality concern are predicted to impact air quality at existing and potential $PM_{2.5}$ monitor locations which are appropriate to allow the comparison of predicted $PM_{2.5}$ concentrations to the current $PM_{2.5}$ standards, based on $PM_{2.5}$ monitor siting requirements (40 CFR Part 58)." (71 FR 12471)

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9241–2]

Notice of a Regional Project Waiver of Section 1605 (Buy American) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the Woodlake Tax District in Woodbury, CT

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA is hereby granting a waiver of the Buy American requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] to the Woodlake Tax District ("District") in Woodbury, Connecticut for the purchase of a submersible well pump as part of the construction of a new bedrock well field and raw water transmission line. This is a project specific waiver and only applies to the use of the specified product for the ARRA project being proposed. Any other ARRA recipient that wishes to use the same product must apply for a separate waiver based on project specific circumstances. Based upon information submitted by the District and its consulting engineer, it has been determined that there are currently no domestically manufactured submersible well pumps available to meet its proposed project specifications. The Regional Administrator is making this determination based on the review and recommendations of the Municipal Assistance Unit. The Assistant Administrator of the Office of Administration and Resources Management has concurred on this decision to make an exception to Section 1605 of ARRA. This action permits the purchase of a 3 inch diameter submersible well pump by the District, as specified in its October 19, 2010 request.

DATES: *Effective Date:* December 10, 2010.

FOR FURTHER INFORMATION CONTACT: Katie Connors, Environmental Engineer, (617) 918–1658, or David Chin, Environmental Engineer, (617) 918–1764, Municipal Assistance Unit (CMU), Office of Ecosystem Protection (OEP), U.S. EPA, 5 Post Office Square, Suite 100, Boston, MA 02109–3912.

SUPPLEMENTARY INFORMATION: In accordance with ARRA Section 1605(c), the EPA hereby provides notice that it is granting a project waiver of the requirements of Section 1605(a) of Public Law 111–5, Buy American requirements, to the District for the purchase of a non-domestically manufactured 3 inch diameter submersible well pump to meet the District's specifications as part of the construction of a new bedrock well field and raw water transmission line.

Section 1605 of the ARRA requires that none of the appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or a public works project unless all of the iron, steel, and manufactured goods used in the project is produced in the United States, or unless a waiver is provided to the recipient by the head of the appropriate agency, here the EPA. A waiver may be provided if EPA determines that (1) applying these requirements would be inconsistent with the public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and the relevant manufactured goods produced in the United States will increase the cost of

the overall project by more than 25 percent.

Consistent with the direction of the OMB Guidance at 2 CFR 176.120, EPA has evaluated the District's request to determine if the request constitutes a late request. EPA will generally regard waiver requests with respect to components that were specified in the bid solicitation or in a general/primary construction contract as "late" if submitted after the contract date. However, in this case EPA has determined that the District's request, though made after the date that the contract was signed, can be evaluated as timely because the need for a waiver was not reasonably foreseeable. During construction, one of the three bedrock wells became unstable and required additional PVC casing to be installed the length of the well. Due to the additional PVC casing in the well, the 4 inch diameter well pump specified during design could no longer be utilized and a smaller 3 inch diameter submersible well pump was needed. The recipient could not reasonably have foreseen the need for a waiver prior to the changed circumstances which developed during construction. Accordingly, EPA will evaluate the request as a timely request.

The District is requesting a waiver from the Buy American provision of ARRA for one 3 inch diameter, 1 horsepower, single phase submersible well pump manufactured by Grundfos Pump Corporation. The unit is scheduled for installation by the end of November 2010. During drilling and pump testing of one of the three bedrock wells within the well field, a soft rock layer was discovered in the formation and the well appeared to be unstable. An additional 4 inch PVC casing was installed the length of the well to help prevent caving and allow flexibility to install the pump below the soft rock layer. With the additional casing in place, the original 4 inch diameter well pump that was specified during design could no longer be used as it exceeded the diameter of the modified well.

The District has researched foreign and domestic manufacturers of 3 inch diameter submersible well pumps and has determined that domestic manufacturers are not able to manufacture a well pump that meets the necessary 3 inch diameter. The District was only able to identify Grundfos Pump Corporation that manufactures a 3 inch diameter, 1 horsepower, single phase submersible well pump.

An evaluation of all of the submitted documentation by EPA's technical review team supports and confirms the District's claim that there are currently no domestic manufacturers that can provide a submersible well pump that meets the necessary size constraints. The consulting engineer for the District identified three domestic manufacturers in the United States. None of the companies currently manufacture 3 inch diameter submersible well pumps. An independent review of the submitted documentation by EPA's national contractor found four additional possible domestic manufacturers. However, none of the manufacturers contacted currently provides a product that meets the size constraints. In addition, the evaluation of the supporting documentation demonstrated that foreign manufactured 3 inch diameter submersible well pumps are available and will be able to meet the proposed specifications.

Furthermore, the purpose of the ARRA is to stimulate economic recovery by funding current infrastructure construction, not to delay or curtail entirely projects that are "shovel ready" by requiring potential SRF eligible recipients, such as the Woodlake Tax District, to revise their design standards and specifications. To curtail entirely this construction would directly conflict with a fundamental economic purpose of ARRA, which is to create or retain jobs.

The April 28, 2009 EPA HQ Memorandum, "Implementation of Buy American provisions of Public Law 111–5, the 'American Recovery and Reinvestment Act of 2009' " ("Memorandum"), defines *reasonably available quantity* as "the quantity of iron, steel, or relevant manufactured good is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design." The same Memorandum defines "satisfactory quality" as "the quality of steel, iron or manufactured good specified in the project plans and designs."

The Municipal Assistance Unit (CMU) has reviewed this waiver request and has determined that the supporting documentation provided by the District establishes both a proper basis to specify a particular manufactured good, and that the domestically manufactured good that is currently available does not meet the specifications for the proposed project. The information provided is sufficient to meet the following criteria listed under Section 1605(b) of the ARRA and in the April 28, 2009 Memorandum: Iron, steel, and the manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

The March 31, 2009 Delegation of Authority Memorandum provided Regional Administrators with the temporary authority to issue exceptions to Section 1605 of the ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients.

Having established both a proper basis to specify the particular good required for this project and that this manufactured good was not available from a producer in the United States, the Woodlake Tax District is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111–5. This waiver permits use of ARRA funds for the purchase of a non-domestically manufactured 3 inch diameter submersible well pump documented in District's waiver request submittal dated October 19, 2010. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers based on a finding under subsection (b).

Authority: Public Law 111–5, section 1605.

Dated: December 10, 2010.

Ira W. Leighton,

Acting Regional Administrator, EPA Region 1—New England.

[FR Doc. 2010–31894 Filed 12–17–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

FCC to Hold Open Commission Meeting Tuesday, December 21, 2010

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, December 21, 2010, which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No.	Bureau	Subject
1	Public Safety and Homeland Security	*Title:* Framework for Next Generation 911 Deployment.

Item No.	Bureau	Subject
2	Wireline Competition and Wireless Tele-communications.	*Summary:* The Commission will consider a Notice of Inquiry concerning the transition from the current, voice-only 911 system to a broadband-enabled, next-generation 911 system. *Title:* Preserving the Open Internet (GN Docket No. 09–191); Broadband Industry Practices (WC Docket No. 07–52). *Summary:* The Commission will consider a Report and Order adopting basic rules of the road to preserve the open Internet as a platform for innovation, investment, competition, and free expression.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an e-mail to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC Live Web page at *http://www.fcc.gov/live.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *http://www.capitolconnection.gmu.edu.*

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by e-mail at *FCC@BCPIWEB.com.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2010–31988 Filed 12–16–10; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 4, 2011.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Karl J. Breyer, Richard M. Ihrig, and Colleen J. Cooper,* all in Minneapolis, Minnesota; to each acquire voting shares of First Advantage Bancshares, Inc., and thereby indirectly acquire voting shares of First Advantage Bank, both in Coon Rapids, Minnesota.

Board of Governors of the Federal Reserve System, December 15, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–31850 Filed 12–17–10; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 14, 2011.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. Piedmont Community Bank Holdings, Inc., Raleigh, North Carolina; to acquire 100 percent of the voting shares of Community Bank of Rowan, Salisbury, North Carolina.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. Commerce Bank and Trust Holding Company Employee Stock Ownership Plan, Topeka, Kansas; to acquire an additional 3.78 percent, for up to 35.8 percent of the voting shares of Commerce Bank and Trust Holding Company, and thereby indirectly acquire additional voting shares of CoreFirst Bank & Trust, both in Topeka, Kansas.

Board of Governors of the Federal Reserve System, December 15, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–31851 Filed 12–17–10; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 102 3080]

NBTY, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 14, 2011.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "NBTY, File No. 102 3080" to facilitate the organization of comments. Please note that your comment—including your name and your State—will be placed on the public record of this proceeding, including on the publicly accessible FTC Web site, at *http://www.ftc.gov/os/publiccomments.shtm.*

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other State identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential * * *.," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following Web link: *https://ftcpublic.commentworks.com/ftc/nbty* and following the instructions on the Web-based form. To ensure that the Commission considers an electronic comment, you must file it on the Web-based form at the Web link: *https://ftcpublic.commentworks.com/ftc/nbty.* If this Notice appears at *http://www.regulations.gov/search/index.jsp,* you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC Web site at *http://www.ftc.gov/* to read the Notice and the news release describing it.

A comment filed in paper form should include the "NBTY, File No. 102 3080" reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H–135 (Annex D), 600 Pennsylvania Avenue, NW., Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act ("FTC Act") and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Web site, to the extent practicable, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at *http://www.ftc.gov/ftc/privacy.shtm.*

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

FOR FURTHER INFORMATION CONTACT: Devin Domond (202–326–2610), Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 13, 2010), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, an agreement containing a consent order from NBTY, Inc., NatureSmart LLC, and Rexall Sundown, Inc. (collectively, "Respondents").

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves the advertising and promotion of the following products in Respondents' Disney/

Marvel line of children's multivitamin and mineral dietary supplements: (1) Disney Princess Complete; (2) Disney Princess Gummies; (3) Disney Pixar Cars Gummies; (4) Disney Winnie the Pooh Gummies; (5) Disney Tigger & Pooh Gummies; (6) Disney Pixar Finding Nemo Gummies; (7) Disney Pixar Wall-E Gummies; (8) Disney Pixar Toy Story Gummies; (9) Marvel Heroes Complete; and (10) Marvel Heroes Gummies (collectively, the "NBTY Products").

According to the FTC complaint, Respondents represented, in advertisements, that the NBTY Products contained a significant amount of DHA (docosahexaenoic acid, a polyunsaturated Omega-3 fatty acid) or an amount comparable to 100 mg of DHA. The complaint alleges that this claim is false or misleading because, in fact, a daily serving of the NBTY products only contained either 0.1 mg of DHA (which is one thousandth of 100 mg) or 0.05 mg of DHA (which is five ten-thousandths of 100 mg).

The Commission also charges that Respondents represented that the DHA provided by a daily serving of the NBTY Products promoted healthy brain and eye development in children two years of age and older. The FTC alleges that this claim is false or misleading because Respondents failed to have evidence to substantiate it.

The proposed consent order contains provisions designed to prevent Respondents from engaging in similar acts and practices in the future. Part I of the proposed order prohibits Respondents from misrepresenting that any product contains a specific ingredient or specific numerical amount of any ingredient.

Part II of the proposed order prohibits Respondents from making any representations in advertising for any product about the health benefits, performance, or efficacy of the product, unless the representation is true and non-misleading. In addition, Respondents must possess competent and reliable scientific evidence sufficient in quality and quantity, when considered in light of the entire body of relevant and reliable scientific evidence, to support such claims as true.

Part III of the proposed order states that the order does not prohibit Respondents from making representations for any drug that are permitted in labeling for that drug under any tentative or final standard promulgated by the FDA, or under any new drug application approved by the FDA. This part of the proposed order also states that the order does not prohibit Respondents from making representations for any product that are specifically permitted in labeling for that product by regulations issued by the FDA under the Nutrition Labeling and Education Act of 1990.

Part IV of the proposed order requires Respondents to pay two million, one hundred thousand dollars ($2,100,000) to the Commission to be used for equitable relief, including restitution, consumer redress, and any attendant expenses for the administration of such equitable relief.

Parts V through VIII of the proposed order require Respondents to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to certain personnel; to notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and to file compliance reports with the Commission. Part IX provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2010–31823 Filed 12–17–10; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0420]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Testing Communications on FDA-Regulated Products Used in Animals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by January 19, 2011.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–New and title "Testing Communications on FDA–Regulated Products Used in Animals." Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Johnny Vilela, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–7651, *Juanmanuel.vilela@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Testing Communications on FDA–Regulated Products Used In Animals—(OMB Control Number 0910–New)

FDA's Center for Veterinary Medicine (CVM) has authorization under section 903(d)(2)(D) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(d)(2)(D)) to conduct educational and public information programs relating to the safety of CVM-regulated products. Further, CVM is authorized to conduct this needed research to ensure that these programs have the highest likelihood of being effective. Thus, CVM concludes that improving communications about the safety of regulated animal drugs, feed, food additives, and devices will involve many research methods, including individual in-depth interviews, mall-intercept interviews, focus groups, self-administered surveys, gatekeeper reviews, and omnibus telephone surveys.

The information collected will serve three major purposes. First, as formative research, it will provide critical knowledge needed about target audiences to develop messages and campaigns about the use of animal drugs, feed, food additives, and devices. Knowledge of both the consumer and the veterinary professional decision-making processes will provide a better understanding of target audiences that FDA will need in order to design effective communication strategies, messages, and labels. These communications will aim to improve public understanding of the risks and benefits of using regulated animal drugs, feed, food additives, and devices by providing users with a better context in which to place risk information more

completely. Second, as initial testing, it will allow FDA to assess the potential effectiveness of messages and materials in reaching and successfully communicating with their intended audiences. Testing messages with a sample of the target audience will allow FDA to refine messages while still in the developmental stage. Respondents will be asked to give their reaction to the messages in either individual or group settings. Third, as evaluative research, it will allow FDA to ascertain the effectiveness of the messages and the distribution method of these messages in achieving the objectives of the message campaign. Evaluation of campaigns is a vital link in continuous improvement of communications at FDA.

In the **Federal Register** of August 19, 2010 (75 FR 51271), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received comments from two individuals and one trade association. FDA acknowledges one request for additional details on the necessity and purpose of the information to be collected, but notes that comments were invited on FDA's request for a generic clearance related to the formative testing of communications about veterinary products and products for animals. Under this generic clearance, details of individual studies (research questions, target audiences, methodologies, and consultants) will be tailored to specific communications-related questions. For each study FDA requests under this clearance, FDA will provide OMB with these details on the information collection. The communication development process will inform the purpose of the data collection and the means by which the data will be collected. For very early message development, qualitative research such as in-depth interviews or focus groups will be appropriate. At later communication development stages, more quantitative data collection would be more useful. FDA plans to use the data collected under this generic clearance to inform its communications campaigns. The data will not be used for the purposes of making policy or regulatory decisions.

Audience targets are also informed by the specific research question. Nonetheless, FDA provided more information by specifying some of the groups more likely to be targeted in tasks under this generic clearance, including: Consumers, pet owners, large animal producers, veterinarians, animal distributors, pet shop owners, stockyards staff and owners, abattoir owners or staff, grocery meat purchasers, agricultural extension agents, and professors of food science and related fields.

Furthermore, comments related to ways to enhance the data collection and to assess FDA's estimate of burden indicated that FDA should not limit itself to in-house expertise. FDA acknowledges that assistance may be requested from experts in other Government agencies. Depending on the specific research question to be addressed, FDA may consult experts in the United States Department of Agriculture and the United States Environmental Protection Agency.

FDA received a comment relating to the cruelty and sadism of animal testing. In response to this comment, FDA notes that its notice was for public comment on data collection related to communication studies. No animal testing is involved.

FDA received a comment that made a series of complaints against the Agency unrelated to its notice for public comment. Accordingly, those comments are not addressed in this document.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 U.S.C. 393(d)(2)(D)	No. of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Individual in-depth interviews	360	1	360	.75	270
General public focus group interviews	288	1	288	1.50	432
Intercept interviews: Central location	200	1	200	.25	50
Intercept interviews: Telephone [2]	2,000	1	2,000	.08	160
Self-administered surveys	2,400	1	2,400	.25	600
Gatekeeper reviews	300	1	300	.50	150
Omnibus surveys	1,200	1	1,200	.17	204
Total (general public)					1,866
Veterinarian/scientific expert focus group interviews	288	1	288	1.50	432
Total (overall)					2,298

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] These are brief interviews with callers to test message concepts and strategies following their call-in request to an FDA Center 1–800 number.

Dated: December 7, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–31891 Filed 12–17–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Defense Advanced Research Projects Agency and Food and Drug Administration Expanding In Vivo Biomarker Detection Devices Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

The Food and Drug Administration (FDA) is announcing the following public workshop cosponsored with the Defense Advanced Research Projects Agency (DARPA): Expanding In Vivo Biomarker Detection Devices Workshop.

The DARPA Defense Sciences Office and the FDA Center for Devices and Radiological Health (CDRH) are hosting a workshop to discuss current state-of-the-art and innovative research opportunities in the area of in vivo analytical devices capable of measuring biomarkers that characterize normal biological processes, pathologic

processes, and pharmacologic responses. In particular, this workshop will focus on the technical challenges for developing implanted or continuously applied devices capable of measuring and monitoring clinically relevant molecular biomarkers (small molecules, proteins, peptides, and nucleic acids) to alert the user of the need for clinical attention and/or to inform the clinician with regard to appropriate action.

Date and Time: The workshop will be held on February 9, 2011, from 7:30 a.m. to 5 p.m.

Location: The workshop will be held at the Executive Conference Center at Liberty Center, 4075 Wilson Blvd., suite 350, Arlington, VA 22203.

Contact: Jonathan Sackner-Bernstein, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 5410, Silver Spring, MD 20903, 301–796–5420, e-mail: *jonathan.sackner-bernstein@fda.hhs.gov;* or Daniel Wattendorf, Defense Advanced Research Projects Agency, 3701 North Fairfax Dr., Arlington, VA 22203, 703–526–6630. Administrative questions about the workshop should be directed to the attention of Ms. Jenifer Schimmenti (*jschimmenti@sainc.com*).

Registration and Requests for Presentations: Registration logistics will be managed by DARPA according to instructions posted on their Web site at *http://www.sa-meetings.com/DARPA_FDA_Workshop* (login: DARPAFDA, password: arlington), including instructions for registration and presentation of previous or potential research and development capabilities consistent with the workshop goals in order to facilitate discussions. The deadline to submit abstracts and requests for poster presentations is listed on the DARPA Web site. After the deadline posted, no submissions will be considered.

If you need special accommodations due to a disability, please contact Jenifer Schimmenti (*see Contact*) at least 7 days in advance.

Transcripts: There will not be a transcription of this workshop.

SUPPLEMENTARY INFORMATION:

Currently available glucose monitoring systems provide the most developed approach to continuous monitoring of a biomarker in real-time. Despite FDA approval for human use and extensive research and development, these monitoring systems exhibit several important limitations including accuracy/precision, durability, adaptability, and reliability. For example, many of these technologies are limited to detecting one biomarker (glucose) in real-time and the approach cannot be used for the detection of other classes of biomarkers (*e.g.,* nucleic acids), nor do they have the capabilities for being multiplexed. Additionally, these technologies also require frequent secondary testing of blood glucose levels to assure the performance and accuracy of the device. Such technical challenges limit the ability to conveniently monitor health status in real-time settings outside of the patient-physician encounter. These challenges are not isolated to implantable/applied technologies. Available in vitro tools are primarily developed for intermittent measurements, typically within a clinical environment, and do not account for biologic dynamics or responses to environmental stimuli.

With accelerating advances in genomics, epigenomics, transcriptomics, proteomics, and microbiomics, innumerable biomarkers could be informative for the health/disease of individuals and/or populations, particularly when considering potential exposure to allergens, infections, and toxins. Owing to the typical paradigm for development of diagnostic devices, these next generation class of biomarkers that function either as a surrogate endpoint for efficacy or an adverse response do not have their clinical utility qualified in the real-world setting. Without a device to accurately measure predictive biomarkers either continuously or at an acceptable interval, clinical utility may be difficult to establish and translation to accepted screening or diagnostic testing may be impaired. Qualification of biomarkers that inform an individual to seek medical attention or guide a medical provider toward an intervention or clinical decision, within the context of an implanted/applied technology, is a priority.

DARPA and CDRH are seeking to understand challenges and develop technological advancements necessary to enable in vivo medical devices for biomarker detection. While glucose is a critical biomarker, workshop interest will focus broadly on technologies for detection of next-generation biomarkers including chemical biomarkers, proteins, peptides, and nucleic acids. The workshop will address the challenges for developing in vivo devices to clinically validate biomarkers for disease screening, surveillance, prediction of therapeutic response, or prognosis, as well as the potential for using an in vivo approach to measure biomarkers for safety and effectiveness of a therapy (metabolites, toxicity, or surrogate endpoints) as part of a real-time Phase 4 postmarketing surveillance.

The workshop will not focus on the discovery or identification of relevant biomarkers or potential surrogates. Instead, the workshop will focus on critical topic areas and specific technical challenges related to the development of in vivo technologies capable of biomarker detection.

We encourage you to address the following specific technical challenges related to development of in vivo devices:

- *Novel materials:* Materials and chemistries that can be safely applied for continuous in vivo detection of biomarkers, and do not induce/stimulate a biological response (e.g., inflammation).
- *Device design for analytical validation:* Methods for maximizing and verifying accuracy, sensitivity, specificity, reproducibility, and reliability of in vivo biomarker detection methods.
- *Minimal invasiveness:* Device delivery methods and device size reduction, to include issues related to on-board versus external power, communication, and processing.
- *Maximum duration:* Operational lifetime of the implanted device to include overcoming bio-fouling, enhanced biocompatibility, and continuous versus periodic measurements.
- Capacity to measure multiple biomarkers simultaneously.
- Capacity to be rapidly adapted to measure an emerging biomarker of concern.
- Potential for using an in vivo approach to clinically validate biomarkers for disease screening, surveillance, prediction of therapeutic response, or prognosis.

Ideally, these challenges are within the context of the following, as summarized in the Institute of Medicine (IOM) *Evaluation of Biomarker and Surrogate Endpoints in Chronic Disease 2010 Consensus Report (http://books.nap.edu/openbook.php?record_id=12869*):

1. Analytical validation to assure biomarker tests are reliable, reproducible, and adequately sensitive and specific.

2. Qualification to assure the measurement methods can be correlated to a clinical outcome of concern.

3. Utilization analysis to determine that the biomarker used to develop the technology is appropriate.

The goals of this workshop are to define the current state-of-the-art and innovative research opportunities and challenges in developing such devices.

Participants are asked to submit an abstract of no more than 250 words to explain their research efforts and how they specifically pertain to the objectives of the Expanding In Vivo Biomarker Detection Devices Workshop. A workshop representative will contact participants after abstract submission.

Dated: December 14, 2010.

David Dorsey,

Acting Deputy Commissioner for Policy, Planning and Budget.

[FR Doc. 2010–31811 Filed 12–17–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–E–0030]

Determination of Regulatory Review Period for Purposes of Patent Extension; FOLOTYN

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for FOLOTYN and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov*. Submit written petitions along with three copies and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6222, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product FOLOTYN (pralatrexate). FOLOTYN is indicated for the treatment of patients with relapsed or refractory peripheral T-cell lymphoma. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for FOLOTYN (U.S. Patent No. 6,028,071) from Southern Research Institute, Sloan-Kettering Institute for Cancer Research, and SRI International, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 3, 2010, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of FOLOTYN represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for FOLOTYN is 4,591 days. Of this time, 4,406 days occurred during the testing phase of the regulatory review period, while 185 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* March 2, 1997. The applicant claims January 31, 1997, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was March 2, 1997, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* March 24, 2009. The applicant claims March 23, 2009, as the date the new drug application (NDA) for Folotyn (NDA 22–468) was initially submitted. However, FDA records indicate that NDA 22–468 was submitted on March 24, 2009.

3. *The date the application was approved:* September 24, 2009. FDA has verified the applicant's claim that NDA 22–468 was approved on September 24, 2009.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,826 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (*see* **ADDRESSES**) either electronic or written comments and ask for a redetermination by February 18, 2011. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 20, 2011. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (*See* H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (*see* **ADDRESSES**) electronic or written comments and written petitions. It is only necessary to send one set of comments. It is no longer necessary to send three copies of mailed comments. However, if you submit a written petition, you must submit three copies of the petition. Identify comments with the docket number found in brackets in the heading of this document.

Comments and petitions that have not been made publicly available on regulations.gov may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 22, 2010.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 2010–31846 Filed 12–17–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–E–0042]

Determination of Regulatory Review Period for Purposes of Patent Extension; LIVALO

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for LIVALO and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written petitions along with three copies and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6222, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product LIVALO (pitavastatin calcium). LIVALO is indicated for patients with primary hyperlipidemia and mixed dyslipidemia as an adjunctive therapy to diet to reduce elevated total cholesterol, low-density lipoprotein cholesterol, apolipoprotein B, and triglycerides, and to increase high-density lipoprotein cholesterol. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for LIVALO (U.S. Patent No. 5,856,336) from Nissan Chemical Industries, Ltd., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 3, 2010, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of LIVALO represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for LIVALO is 3,341 days. Of this time, 3,036 days occurred during the testing phase of the regulatory review period, while 305 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* June 12, 2000. The applicant claims June 9, 2000, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was June 12, 2000, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* October 3, 2008. The applicant claims October 1, 2008, as the date the new drug application (NDA) for LIVALO (NDA 22–363) was initially submitted. However, FDA records indicate that NDA 22–363 was submitted on October 3, 2008.

3. *The date the application was approved:* August 3, 2009. FDA has verified the applicant's claim that NDA 22–363 was approved on August 3, 2009.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,826 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (*see* **ADDRESSES**) either electronic or written comments and ask for a redetermination by February 18, 2011. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by June 20, 2011. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (*See* H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (*see* **ADDRESSES**) electronic or written comments and written petitions. It is only necessary to send one set of comments. It is no longer necessary to send three copies of mailed comments. However, if you submit a written petition, you must submit three copies of the petition. Identify comments with the docket number found in brackets in the heading of this document. Comments and petitions that have not been made publicly available on regulations.gov may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 22, 2010.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 2010–31847 Filed 12–17–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0528]

Unapproved Animal Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency) is soliciting comments from stakeholders on strategies to address the prevalence of animal drug products marketed in the United States without approval or other legal marketing status. FDA is concerned that the safety and effectiveness of these actively-marketed products has not been demonstrated. Therefore, the Agency is requesting comments on approaches for increasing the number of legally-marketed animal drug products, as well as on the use of enforcement discretion for some unapproved animal drug products in certain limited circumstances.

DATES: Submit either electronic or written comments by February 18, 2011.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Tracey H. Forfa, Center for Veterinary Medicine (HFV–1), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–9000. *e-mail: tracey.forfa@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Purpose

FDA is soliciting comments from all stakeholders, including the regulated industry, veterinary professionals, and the public on strategies to address the prevalence of animal drug products marketed in the United States without approval or other legal marketing status. The Agency is concerned that the safety and effectiveness of these marketed products has not been demonstrated. FDA recognizes that the continued availability of a number of these products is important to meet the health needs of animals. FDA is requesting comments on approaches for increasing the number of currently marketed animal drug products that have legal marketing status. Our focus at this time is not on revising the current new animal drug approval process. Instead, we wish to explore additional mechanisms that utilize FDA's existing regulatory framework as well as novel strategies not currently employed by the agency to increase the number of approved or otherwise legally marketed animal drugs. Furthermore, we are requesting comment on the use of limited enforcement discretion as an element of the overall strategy.

II. Background

New animal drugs cannot be legally marketed unless they have been reviewed and approved, conditionally approved, or index-listed by FDA. The Federal Food, Drug, and Cosmetic Act (the FD&C Act) defines the term "drug" to include articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, and articles (other than food) intended to affect the structure or any function of the body of man or other animals (section 201(g)(1) of the FD&C Act (21 U.S.C. 321(g)(1)). The FD&C Act also defines the term "new animal drug." A "new animal drug" includes any drug intended for use for animals that is not generally recognized as safe and effective for use under the conditions listed in the drug's labeling (section 201(v) of the FD&C Act).

Under the FD&C Act, a new animal drug may not be legally introduced into interstate commerce unless it is the subject of an approved new animal drug application (NADA) or abbreviated new animal drug application (ANADA) under section 512 of the FD&C Act (21 U.S.C. 360b), a conditional approval (CNADA) under section 571 of the FD&C Act (21 U.S.C. 360ccc), an index listing under section 572 of the FD&C Act (21 U.S.C. 360ccc–1), or an investigational new animal drug exemption (INAD) under section 512(j) of the FD&C Act (21 U.S.C. 360b(j)). When this notice refers to an "unapproved animal drug," we mean an animal drug that does not have a necessary approval, conditional approval, index listing, or INAD exemption.

The FD&C Act's new animal drug approval requirements provide important protection for humans and animals. Animal drugs that are marketed without required FDA review and approval may not meet requirements and standards for, among other things, safety and effectiveness. The FDA drug approval process ensures, through an evaluation of scientific evidence, that animal drugs are safe and effective. The approval process also provides a review of product-specific information that is critical to ensuring the safety and effectiveness of the finished animal drug product. For instance, the sponsor of an NADA must demonstrate that the manufacturing processes can reliably produce drug products of expected identity, strength, quality, and purity. Furthermore, FDA's review of the applicant's labeling assures that veterinarians, animal owners and other consumers have the information necessary to understand a drug product's risks. In addition, firms marketing approved animal drug products must report adverse events associated with their product's use, which helps FDA continuously assess the risks associated with a particular product. Although the conditional approval and indexing requirements differ in some ways from the animal drug approval process, they all provide for a science-based review to assure the drug will be safe for its intended use. FDA employs these standards in the new animal drug approval process to protect both human and animal health.

For many years, FDA has been aware that a wide variety of animal drug products are being marketed that meet the definition of "drug" and "new animal drug" as defined in the FD&C Act, but are not approved, conditionally approved, or indexed. Many of these unapproved animal drugs were, and some continue to be, the standard of care in treating animals, and some are essential to protecting animal health and ensuring an adequate food supply.

In general, the types of unapproved animal drugs being marketed include, but are not limited to, injectable vitamins, various topical solutions, shampoos, and liniments, electrolyte and glucose solutions, and antidotes. In addition, there are a variety of anti-infective and other animal drug products marketed for use in a variety of animal species. The Agency determined, based on available information, that some of these animal drug products or categories of products did not raise safety concerns. With respect to those products, the Agency historically exercised its enforcement discretion, even though such products lacked the required FDA marketing approval. This approach has been important for setting enforcement priorities and for making decisions as to whether to take action against an illegally marketed unapproved drug or class of drugs under particular circumstances.

Some of these unapproved drugs which did not raise safety concerns have been marketed under an FDA letter of "no objection," issued in response to a firm's request, stating that FDA did not at the time object to the marketing of a particular unapproved new animal

drug. In addition, some unapproved drugs have been marketed under the auspices of Compliance Policy Guides issued by FDA to let its staff, the public, and industry know the conditions under which FDA would consider enforcement action with respect to these unapproved drugs. This practice of proactively announcing the Agency's intent to exercise enforcement discretion with respect to particular types of unapproved drugs under specified conditions has been used in certain circumstances because of the relatively limited number of approved animal drugs available to meet the animal health needs of a diverse number of animal species.

FDA recognizes that it will be necessary to continue to exercise enforcement discretion in limited circumstances for certain essential unapproved animal drug products or categories of products as the Agency works to develop new ways to increase the availability of products that are approved or otherwise legally marketed. However, it is the Agency's general expectation that new animal drugs must be approved or otherwise legally marketed as required by the FD&C Act. Therefore, any exercise of the Agency's enforcement discretion with respect to unapproved animal drugs should be limited to the greatest extent possible. To that end, the Agency is seeking comment on strategies for increasing the number of animal drug products that are legally marketed, and thus decreasing the number of currently marketed products that lack approval or other legal marketing status. Such strategies may include alternative pathways to achieve legal marketing status that assure animal drug products meet safety and effectiveness standards, including human food safety standards. However, even after alternative pathways to legal marketing are established, some drugs may not be well-suited to such alternatives and may be required to go through the new animal drug approval process, especially in cases where there are safety or effectiveness concerns. For example, certain drug products intended for use in food-producing animals may only be able to achieve legal marketing status through the traditional new animal drug approval process because of concerns about drug residues appearing in edible tissues.

III. Agency Request for Comments

FDA is soliciting public comment on potential actions the Agency can take to help achieve the goal of obtaining legal marketing status, as appropriate, for unapproved animal drugs that are currently being marketed in the United States. We are interested in comments on strategies that utilize FDA's existing regulatory framework for addressing this issue as well as comments on novel strategies not currently employed by the Agency. In conjunction with pursuing this goal, the Agency recognizes the need for maintaining the availability of essential animal drugs for pet owners, veterinarians, and animal producers.

FDA is also specifically requesting comments and information on the questions and subjects below. This list is not all-inclusive, however, and is not intended to limit the range of options available for public comment. The Agency asks that comments be as detailed as possible, with explanations and information to assist FDA in evaluating whether the approaches will help accomplish the goal of increasing the number of currently marketed animal drug products that have approval or other legal marketing status. FDA's intent is that of inquiry and not for anyone to read this list as any indication of the Agency's position on a particular approach or a determination that the Agency has the resources to implement such an approach.

A. Increasing the Availability of Legally Marketed Animal Drug Products

In general, the types of unapproved animal drugs being marketed include, but are not limited to: Injectable vitamins; various topical solutions, shampoos, and liniments; electrolyte and glucose solutions; and antidotes. In addition, there are a variety of anti-infective and other animal drug products marketed for use in a variety of animal species. Given the broad array of animal drug products that are important for meeting the health needs of a diverse number of animal species, FDA is interested in exploring alternative approaches (*i.e.,* alternatives to the existing new animal drug approval process) by which those products could be legally marketed. Some examples of alternative approaches are discussed in sections III.A.1 and III.A.2 of this document.

1. Monographs

Certain over-the-counter (OTC) drugs for humans are marketed under monographs that establish the conditions under which these drugs are generally recognized as safe and effective and not misbranded. The monographs specify active ingredients, dosage forms, product strengths, indications for use, labeling, and other conditions. Human OTC drug products that comply with all of a monograph's conditions and the provisions in 21 CFR part 330 may be manufactured and distributed without applications or any other premarket review. Monographs are developed after review of available information about safety and effectiveness, including published and unpublished data and information submitted to the Agency, and must be supported by adequate and well-controlled studies.

Does published literature of sufficient quality exist for some currently marketed unapproved animal drugs such that monographs might be a feasible approach? For which drugs might this be feasible? What are the attributes that make the published literature suitable for this purpose? What criteria should be used to determine whether an animal drug is potentially suitable for a monograph to ensure that quality, safety and effectiveness would not be compromised in the absence of premarket review?

2. Use of Publicly Available Information

In some cases, human prescription drugs have been approved and marketed after FDA reviewed the existing literature and data regarding a particular drug or class of drugs. Examples of drugs for which FDA has used this approach include the following:

- Prussian Blue (*see* "Guidance for Industry on Prussian Blue for Treatment of Internal Contamination With Thallium or Radioactive Cesium; Availability" (68 FR 5645, February 4, 2003)) and
- Pancreatic Enzymes (*see* "Exocrine Pancreatic Insufficiency Drug Products" (69 FR 23410, April 28, 2004), "Exocrine Pancreatic Insufficiency Drug Products for Over-the-Counter Human Use" (56 FR 32282, July 15, 1991), and "Guidance for Industry: Exocrine Pancreatic Insufficiency Drug Products—Submitting NDAs," issued in April 2006 and available online at *http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm071651.pdf*).

For each of these drugs, FDA reviewed the publicly available information and published in the **Federal Register** a discussion regarding the drug's safety and effectiveness, and any conclusions reached by the Agency based on that review. Firms then submitted drug applications referencing the public information and/or the **Federal Register** notice to address certain information requirements needed for an application.

Does published literature of sufficient quality exist for some animal drugs that could be used to support safety and effectiveness evaluations for these

currently unapproved marketed drugs? For which drugs might this be feasible? What attributes make published literature of sufficient quality to contribute to such an evaluation?

B. Limiting the Use of Enforcement Discretion

As stated previously, the Agency acknowledges that the practice of exercising enforcement discretion in certain circumstances is necessary to ensure the availability of some essential animal drug products. This practice of exercising enforcement discretion (*i.e.,* a decision on the part of the Agency to not take enforcement action in certain circumstances) is not only important for managing limited Agency resources related to compliance activities but is also important for assuring that certain animal drug products remain available for addressing the health needs of animals. However, FDA's goal is to limit, to the extent possible, its use of enforcement discretion for unapproved animal drugs.

What factors should the Agency consider when determining which unapproved animal drug products or categories of products should be the subject of enforcement discretion?

IV. Comments

Interested persons may submit to the Division of Dockets Management (*see* **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 15, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–31889 Filed 12–17–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB; Comment Request; National Epidemiologic Survey on Alcohol and Related Conditions—III

SUMMARY: In compliance with the requirement of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on October 15, 2010, and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: National Epidemiologic Survey on Alcohol and Related Conditions—III. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* This study will determine the prevalence of alcohol use patterns and alcohol use disorders and their associated disabilities in a representative sample of adults in the United States population. The primary objectives of this study are to: (1) Understand the relationships between alcohol use patterns and alcohol use disorders and their related psychological and medical disabilities with a view toward designing more effective treatment, prevention and intervention programs; (2) identify subgroups at high risk for alcohol use disorders that are complicated by associated disabilities; (3) understand treatment utilization, unmet treatment need, barriers to treatment, health disparities, and economic costs of alcohol use disorders and their associated disabilities; and (4) identify environmental and genetic risk factors and their interactions that are associated with harmful consumption patterns and alcohol use disorders and their associated disabilities. *Frequency of Response:* On occasion. *Affected Public:* Individuals. *Type of Respondents:* Adults.

ESTIMATED TOTAL ANNUAL BURDEN

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Adults	44,900	1	1.0	44,900
Adults	1,700	2	1.7	2,890
Total				47,790

The annualized cost to respondents is estimated to be $936,684.00. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr.

Bridget Grant, Chief, Laboratory of Epidemiology and Biometry, DICBR, NIAAA, NIH, 5635 Fishers Lane, Room 3077, Rockville, MD 20852, or call non-toll-free number 301–443–7370 or E-mail your request, including your address, to: *Bgrant@willco.niaaa.nih.gov*.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

Dated: December 15, 2010.

Keith Lamirande,

Acting Executive Officer, NIAAA, National Institutes of Health.

[FR Doc. 2010–31901 Filed 12–17–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory General Medical Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory General Medical Sciences Council.

Date: January 27–28, 2011.

Closed: January 27, 2011, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1 & E2, 45 Center Drive, Bethesda, MD 20892.

Open: January 28, 2011, 8:30 a.m. to ADJOURNMENT.

Agenda: For the discussion of program policies and issues, opening remarks, report of the Director, NIGMS, and other business of the Council.

Place: National Institutes of Health, Natcher Building, Conference Rooms E1 & E2, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Ann A. Hagan, PhD, Associate Director for Extramural Activities, NIGMS, NIH, DHHS, 45 Center Drive, Room 2AN24H, MSC 6200, Bethesda, MD 20892–6200. (301) 594–4499. *hagana@nigms.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxis, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit. Information is also available on the Institute's/Center's home page: *http://www.nigms.nih.gov/about/advisory_council.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: December 14, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–31857 Filed 12–17–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Hormone Therapy and Cognitive Aging.

Date: January 11, 2011.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ramesh Vemuri, PhD, Chief, Scientific Review Office, National Institute On Aging, National Institutes of Health, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel; Cell Lineage and Tissue Homeostasis in the Aged.

Date: March 1, 2011.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bita Nakhai, PhD, Scientific Review Officer, Scientific Review Branch, National Institute On Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: December 14, 2010.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–31859 Filed 12–17–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2010–0057; OMB No. 1660–0072]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, OMB No. 1660–0072; Mitigation Grants Program/eGrants

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 30-day notice and request for comments; extension, without change, of a currently approved

information collection; OMB No. 1660–0072; No Form.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before January 19, 2011.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or e-mail address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: Mitigation Grants Program/eGrants.

Type of information collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0072.

Form Titles and Numbers: FEMA Form—None.

Abstract: The FEMA mitigation grant programs—Flood Mitigation Assistance, Severe Repetitive Loss, Repetitive Flood Claim, and Pre-Disaster Mitigation—all utilize an automated grant application and management system known as e-Grants to apply for these grants. These programs provide funding to allow for the reduction or elimination of the risks to life and property from hazards. The e-Grants system also provides the mechanism to provide quarterly reports of the financial status of the project and the final closeout report.

Affected Public: State, local and Tribal Government.

Estimated Number of Respondents: 56.

Frequency of Response: On occasion.

Estimated Average Hour Burden per Respondent: Benefit-Cost Determination, 5 hours; Environmental Review, 7.5 hours; Project Narrative—Sub-grant Application, 12 hours.

Estimated Total Annual Burden Hours: 43,848 hours.

Estimated Cost: There are no operation and maintenance, or capital and start-up costs associated with this collection of information.

Dated: December 9, 2010.

Lesia M. Banks,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2010–31801 Filed 12–17–10; 8:45 am]

BILLING CODE 9110–13–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2010–N278; 80221–1113–0000–F5]

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing these permits.

DATES: Comments on these permit applications must be received on or before January 19, 2011.

ADDRESSES: Written data or comments should be submitted to the U.S. Fish and Wildlife Service, Endangered Species Program Manager, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, Fish and Wildlife Biologist; *see* **ADDRESSES** (telephone: 760–431–9440; fax: 760–431–9624).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*). We seek review and comment from local, State, and Federal agencies and the public on the following permit requests. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Permit No. TE–27460A

Applicant: Brian A. Zitt, Santa Ana, California.

The applicant requests a permit to take (survey, electroshock, capture, handle, and release) the Santa Ana sucker (*Catostomus santaanae*) and take (survey, capture, handle, and release) the arroyo toad (*Bufo californicus*) in conjunction with surveys and population monitoring activities throughout the range of each species in California, for the purpose of enhancing their survival.

Permit No. TE–088197

Applicant: High Mesa Research, Valdez, New Mexico.

The applicant requests an amendment to an existing permit (September 5, 2006, 71 FR 52336) to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with surveys and population monitoring activities throughout the range of the species in California and Nevada for the purpose of enhancing its survival.

Permit No. TE–835549

Applicant: Charles H. Black, San Diego, California.

The applicant requests an amendment to an existing permit (March 6, 2000, 65 FR 11798) to remove/remove to possession California Orcutt grass (*Orcuttia californica*) and willowy monardella (*Monardella linoides* subsp. *viminea*) in conjunction with population monitoring, germination, and growth studies from Marine Corps Air Station Miramar, California, for the purpose of enhancing their survival.

Permit No. TE–29658A

Applicant: Cindy Dunn, San Diego, California.

The applicant requests a permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with surveys throughout the range of the species in California for the purpose of enhancing its survival.

Permit No. TE–776608

Applicant: Monk and Associates Incorporated, Walnut Creek, California.

The applicant requests an amendment to an existing permit (October 7, 2002, 67 FR 62492) to take (install and remove egg laying substrates within occupied habitat) the California tiger salamander (*Ambystoma californiense*) in conjunction with research throughout the range of the species in California for the purpose of enhancing its survival.

Permit No. TE–29522A

Applicant: Kenneth L. Gilliland, Ventura, California.

The applicant requests a permit to take (survey, locate and monitor nests, population monitor, collect carcasses and infertile eggs) the California least tern (*Sterna antillarum browni*) and take (monitor nests, collect carcasses and infertile eggs) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with surveys and population monitoring activities at the Guadalupe Restoration Project, San Luis Obispo County, California, for the purpose of enhancing their survival.

Permit No. TE–082908

Applicant: Melanie S. Rocks, Woodland, California.

The applicant requests a permit to take (capture, collect, and kill) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus wootoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*), and take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of each species in California for the purpose of enhancing their survival.

We invite public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Michael Long,

Acting Regional Director, Region 8, Sacramento, California.

[FR Doc. 2010–31907 Filed 12–17–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–MB–2010–N281; 91200–1231–9BPP–L2]

Service Regulations Committee Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Fish and Wildlife Service (hereinafter Service) will conduct an open meeting on February 2, 2011, to identify and discuss preliminary issues concerning the 2011–12 migratory bird hunting regulations.

DATES: The meeting will be held February 2, 2011.

ADDRESSES: The Service Regulations Committee will meet at the Embassy Suites Hotel, Denver—International Airport, 7001 Yampa Street, Denver, CO 80249; (303) 574–3000.

FOR FURTHER INFORMATION CONTACT: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms-4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240; (703) 358–1714.

SUPPLEMENTARY INFORMATION: Under the authority of the Migratory Bird Treaty Act (16 U.S.C. 703–712), the Service regulates the hunting of migratory game birds. We update the migratory game bird hunting regulations, located at 50 CFR part 20, annually. Through these regulations, we establish the frameworks, or outside limits, for season lengths, bag limits, and areas for migratory game bird hunting. To help us in this process, we have administratively divided the nation into four Flyways (Atlantic, Mississippi, Central, and Pacific), each of which has a Flyway Council. Representatives from the Service, the Service's Migratory Bird Regulations Committee, and Flyway Council Consultants will meet on February 2, 2011, at 8:30 a.m. to identify preliminary issues concerning the 2011–12 migratory bird hunting regulations for discussion and review by the Flyway Councils at their March meetings.

In accordance with Department of the Interior (hereinafter Department) policy regarding meetings of the Service Regulations Committee attended by any person outside the Department, these meetings are open to public observation.

Dated: December 14, 2010.

Jerome Ford,

Acting Assistant Director, Migratory Birds, U.S. Fish and Wildlife Service.

[FR Doc. 2010–31873 Filed 12–17–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

Record of Decision

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability of the Record of Decision on the Final Environmental Impact Statement/South Florida and Caribbean Parks Exotic Plant Management Plan.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), and the Council on Environmental Quality regulations (40 CFR part 1500–1508), the Department of the Interior, National Park Service (NPS) has prepared and approved a Record of Decision (ROD) for the Final Environmental Impact Statement (Final EIS) for the South Florida and Caribbean Parks Exotic Plant Management Plan. The nine parks included in this Plan are: Big Cypress National Preserve, Biscayne National Park, Canaveral National Seashore, Dry Tortugas National Park, Everglades National Park, Buck Island Reef National Monument, Christiansted National Historic Site, Salt River Bay National Historic Park and Ecological Preserve, and Virgin Islands National Park.

The ROD documents the decision by the NPS to implement Alternative C (New Framework for Exotic Plant management: Increased Planning, Monitoring, and Mitigation, with an Emphasis on Active Restoration of Native Plants) as the selected action for the South Florida and Caribbean Parks Exotic Plant Management Plan. Alternative C was also identified in the Final EIS as the environmentally preferable alternative.

The selected action is necessary to promote restoration of native species and habitat conditions in ecosystems that have been invaded by exotic plants and to protect park resources and values from adverse effects resulting from exotic plant presence and control activities. The intended effects or objectives of this action are to:

• Establish priorities for exotic plants to be treated and treatment locations in parks;

- Reduce the number of individual targeted exotic plants to minimize the threat to natural resources (native habitat, plants, and wildlife);
- Reduce to the greatest extent possible the introduction of new exotic plants into parks;
- Ensure that park exotic plant management programs support, and are consistent with, south Florida ecosystem restoration goals;
- Reconcile potential conflicts between preservation of significant cultural landscapes and removal of exotic plants;
- Preserve plants and sites valued by native Americans and other traditional cultures and protect archeological and historic resources, while reducing the spread of exotic plant species;
- Conduct the exotic plant management plan so it is continually monitored and improved, environmentally safe, incorporates best management practices, and supports and is supported by science and research;
- Minimize unintended impacts of control measures on park resources, visitors, employees, and the public;
- Use Federal resources with increased efficiency;
- Ensure that control measures are consistent with the Wilderness Act and NPS wilderness policy;
- Increase visitor and public awareness of the impacts exotic plants have on native habitat and species and on cultural resources, building support for NPS management efforts;
- Coordinate NPS efforts with partners and neighbors (nationally and internationally) to establish compatible goals and provide assistance to achieve them; and
- Restore and protect native plant communities in ways that allow natural processes, function, cycles, and biota to be re-established and maintained in perpetuity.

FOR FURTHER INFORMATION CONTACT: Sandra Hamilton, Environmental Quality Division, National Park Service, Academy Place, P.O. Box 25287, Denver, CO 80225. Telephone: (303) 969–2068 for questions about the EIS process or Tony Pernas, Southeast Regional Office, National Park Service (305) 252–0347 for questions about technical aspects of the Plan.

SUPPLEMENTARY INFORMATION: Under the selected action, the NPS will apply a systematic approach that will prioritize exotic plants for treatment, monitor effects of those treatments on exotic plants and park resources, and mitigate any adverse effects to park resources as determined through the monitoring program. The NPS will employ an adaptive management strategy, using the results of monitoring to adjust treatment methods or mitigation methods to reach the desired future condition of treated areas in the parks. A decision tool will be applied to determine areas that are appropriate for active restoration, which will occur in park areas that have been previously disturbed and in areas with potential threatened and endangered species habitat or sensitive vegetation communities where a more rapid recovery is desirable. The active restoration approach for a given treatment area will be determined based on a site-specific evaluation. Other areas in the parks will recover passively after treatment.

The ROD briefly discusses the selected action, two other alternatives considered, the basis for the decision, and measures to minimize impacts and address public concerns.

The requisite no-action "wait period" before approval of the ROD was initiated on 3 September 2010, with the U.S. Environmental Protection Agency's **Federal Register** notification of the filing of the Final EIS. As soon as practical after the publication of this Notice in the **Federal Register**, the nine parks included in the Plan will begin to implement treatment and control, monitoring, adaptive management of exotic plants and restoration of native plant communities as described and analyzed in the Preferred Alternative (Alternative C) presented in the Final EIS.

Interested parties desiring to review the ROD may access it on the NPS Planning, Environment and Public Comment Web site at *http://parkplanning.nps.gov/WASO* or may obtain a copy by contacting the participating parks' headquarters: Big Cypress National Preserve, 33100 Tamiami Trail East, Ochopee, FL 34141; Biscayne National Park, 9700 SW 328 Street, Homestead, FL 33033; Canaveral National Seashore, 212 S. Washington Avenue, Titusville, FL 32796; Dry Tortugas National Park, 40001 State Road 9336, Homestead, FL 33034; Everglades National Park, 40001 State Road 9336, Homestead, FL 33034; Buck Island Reef National Monument, Danish Custom House, Kings Wharf, 2100 Church Street #100, Christiansted, St. Croix, VI 00820; Christiansted National Historic Site, Danish Custom House, Kings Wharf, 2100 Church Street #100, Christiansted, St. Croix, VI 00820; Salt River Bay National Historic Park and Ecological Preserve, Danish Custom House, Kings Wharf, 2100 Church Street #100, Christiansted, St. Croix, VI 00820; and Virgin Islands National Park, 1300 Cruz Bay Creek, St. John, VI 00830.

Authority: The authority for publishing this notice is 40 CFR 1506.6.

The responsible official for this ROD is the Regional Director, Southeast Region, NPS, 100 Alabama Street, SW., 1924 Building, Atlanta, Georgia 30303.

Dated: December 2, 2010.

David Vela,

Regional Director, Southeast Region, National Park Service.

[FR Doc. 2010–31902 Filed 12–17–10; 8:45 am]

BILLING CODE 4310–V6–P

DEPARTMENT OF THE INTERIOR

National Park Service

[1790–ROVA–409]

Notice of Availability of the Record of Decision for the General Management Plan/Environmental Impact Statement for the Roosevelt-Vanderbilt National Historic Sites

AGENCY: National Park Service.

ACTION: Record of Decision.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended [42 U.S.C. 4332(2)(C)], the National Park Service (NPS) announces the availability of the Record of Decision for the General Management Plan/Environmental Impact Statement (GMP/EIS) for the Roosevelt-Vanderbilt National Historic Sites (NHS), in Hyde Park, New York. The Regional Director, Northeast Region, approved the Record of Decision for the GMP/EIS. The Record of Decision includes a statement of the decision made, a synopsis of other alternatives considered, the basis for the decision, a description of the environmentally preferable alternative, a finding on impairment of park resources and values, a listing of measures to minimize environmental harm, and an overview of public involvement in the decision-making process. The approved General Management Plan will guide long-term management of the Roosevelt-Vanderbilt NHS, which is comprised of three (3) units of the national park system: The Home of Franklin D. Roosevelt NHS; Eleanor Roosevelt NHS (also known as Val-Kill); and Vanderbilt Mansion NHS. As soon as practicable, the NPS will begin to implement the selected alternative, which is Action Alternative Two, the NPS preferred alternative, as described in the Abbreviated Final GMP/EIS issued on August 6, 2010.

FOR FURTHER INFORMATION CONTACT: Superintendent, Roosevelt-Vanderbilt National Historic Sites, 4097 Albany Post Road, Hyde Park, NY 12538; (845) 229–9116 ext. 33; *Sarah_Olson@nps.gov.*

SUPPLEMENTARY INFORMATION: The primary function of a general management plan is to clearly define a park's purpose and management direction over the long term, typically 15 to 20 years into the future. The plan describes the resource conditions and visitor experiences that are to be achieved and maintained. The clarification of what must be achieved according to law and policy is based on a review of the park's purpose, significance, and mission. The NPS seeks to have all parks operate under approved general management plans to ensure that park managers carry out as effectively and efficiently as possible the mission of the NPS.

Hyde Park, New York, is home to three national historic sites established by separate legislation: The Home of Franklin D. Roosevelt National Historic Site; Eleanor Roosevelt National Historic Site (also known as Val-Kill); and the Vanderbilt Mansion National Historic Site. The sites are combined into a single administrative unit, Roosevelt-Vanderbilt National Historic Sites, under one superintendent and operated by one staff. Together the parks include over 1,100 acres of Federally owned land along the east bank of the Hudson River. The GMP/EIS was created over several years under the guidance of an interdisciplinary planning team including the Superintendent, senior park staff, NPS regional office staff, and consultants. At the outset, the planning team recognized that, although a general management plan was needed for each of the three Roosevelt-Vanderbilt National Historic Sites, a single unifying plan was not only the most expeditious approach, but was also essential for continued coordinated management.

The planning process for the GMP/EIS was conducted with extensive public and agency involvement. During 2005 and 2006, the planning team held meetings with and/or contacted key stakeholders, agencies, Tribes, resource experts, and members of the public. Planning newsletters were distributed in 2006 and 2007 with updates on the planning process, draft statements of purpose and significance, preliminary planning issues, and describing three preliminary alternatives, and also included a mail-back card inviting comment. Over the course of the next two years, the planning team continued to brief and receive input from stakeholders.

The Draft GMP/EIS was released for public review and comment from December, 24, 2009, through February 28, 2010. The Draft GMP/EIS presented and evaluated three alternatives: The No-Action Alternative; Action Alternative One; and Action Alternative Two. Action Alternative Two was identified as the NPS Preferred Alternative. Copies of the Draft GMP/EIS were sent to individuals, agencies, Tribes, and organizations, and were made available at park visitor centers, local library, and on the NPS Planning, Environment, and Public Comment (PEPC) Web site (*http://parkplanning.nps.gov/rova*). Public open houses were held on January 28 and 29, 2010.

The comments received on the Draft GMP/EIS required only minor responses and editorial corrections; thus, an abbreviated format was used for the Final GMP/EIS. The Abbreviated Final GMP/EIS was issued on August 6, 2010. It included an analysis of agency and public comments received on the Draft GMP/EIS with NPS responses, errata sheets detailing editorial corrections to the Draft GMP/EIS, and copies of agency and substantive public comments. No changes were made to the alternatives or to the impact analysis presented in the Draft GMP/EIS. Therefore, Action Alternative Two remained the NPS Preferred Alternative.

The NPS has selected Action Alternative Two because it best fulfills the purposes of the parks and conveys the greatest number of beneficial results in comparison with the other alternatives. The selected action seeks to make the parks relevant to more audiences by encouraging greater civic participation in park activities, while significantly enhancing the historic character of park resources. Resource management efforts will focus on the landscape and be aimed at rehabilitating existing features, but will follow contemporary best practices for land management within select areas. A learning center will be established to expand the scope and magnitude of the educational programs. The selected action calls for a significant expansion of partnership activities in the operation of the sites and opens up greater potential for new approaches to generating revenue to help sustain and improve operations.

The Record of Decision is available online at the NPS Planning, Environment and Public Comment (PEPC) Web site (*http://parkplanning.nps.gov/rova*). A printed copy may be obtained by contacting the park at the address shown above.

Dennis R. Reidenbach,

Regional Director, Northeast Region, National Park Service.

[FR Doc. 2010–31904 Filed 12–17–10; 8:45 am]

BILLING CODE 4312–22–P

DEPARTMENT OF JUSTICE

Notice of Lodging of a Consent Decree Under the Clean Water Act

Notice is hereby given that on December 13, 2010, a proposed Consent Decree ("Decree") in *United States and the State of Georgia v. DeKalb County, Georgia,* Civil Action No. 1:10cv4039–WSD, was lodged with the United States District Court for the Northern District of Georgia, Atlanta Division.

The proposed Consent Decree would resolve claims against DeKalb County for the Clean Water Act violations involving its sanitary sewer system, alleged in the complaint filed by the United States and the State of Georgia. The proposed Consent Decree provides for DeKalb County to perform injunctive measures as described in the Consent Decree, to pay a civil penalty of $226,500 to the United States and $226,500 to the State of Georgia, and to perform a Supplemental Environmental Project valued at $600,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States and State of Georgia* v. *DeKalb County, Georgia,* Civil Action No. 1:10–cv–4039–WSD, D.J. Ref. 90–5–1–1–09497.

The Consent Decree may be examined at the Office of the United States Attorney for the Northern District of Georgia, Richard B. Russell Federal Building, Suite 600, 75 Spring Street, SW., Atlanta, GA 30303, and at the Region 4 Office of the Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent

Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy of the Consent Decree from the Consent Decree Library, please enclose a check in the amount of $27.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–31802 Filed 12–17–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation And Recovery Act

Notice is hereby given that on December 14, 2010, a proposed Wheeler Pit Consent Decree and Settlement Agreement ("Wheeler Pit Settlement Agreement") in the bankruptcy matter, *Motors Liquidation Company, et al., f/k/a General Motors Corp., et al.,* Jointly Administered Case No. 09–50026 (REG), was lodged with the United States Bankruptcy Court for the Southern District of New York. The Parties to the Wheeler Pit Settlement Agreement are debtors Motors Liquidation Corporation, formerly known as General Motors Corporation, Remediation and Liability Management Company, Inc., and Environmental Corporate Remediation Company, Inc. (collectively, "Old GM"); the United States of America; and the State of Wisconsin. The Settlement Agreement resolves claims and causes of action of the Environmental Protection Agency ("EPA") and the Wisconsin Department of Natural Resources against Old GM under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601–9675 with respect to the Wheeler Pit Superfund Site in Rock County, Wisconsin (the "Wheeler Pit Site").

Under the Wheeler Pit Settlement Agreement, Old GM will make a cash payment of $385,991 to Wisconsin for remediation at the Wheeler Pit Site. EPA will also receive an allowed general unsecured claim with respect to unreimbursed past response costs for remediation at the Wheeler Pit Site for $95,045.

The Department of Justice will receive, for a period of thirty days from the date of this publication, comments relating to the Wheeler Pit Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either *e-mailed* to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Motors Liquidation Corp., et al.,* D.J. Ref. 90–11–3–09754. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Wheeler Pit Settlement Agreement may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Floor, New York, New York 10007, and at the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. During the public comment period, the Wheeler Pit Settlement Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* Copies of the Wheeler Pit Settlement Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, please forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–31868 Filed 12–17–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act and the Resource Conservation and Recovery Act

Notice is hereby given that on December 14, 2010, a proposed Sioux City Site Consent Decree and Settlement Agreement ("Sioux City Site Settlement Agreement") in the bankruptcy matter, *Motors Liquidation Company, et al., f/k/a General Motors Corp., et al.,* Jointly Administered Case No. 09–50026 (REG), was lodged with the United States Bankruptcy Court for the Southern District of New York. The Parties to the Sioux City Site Settlement Agreement are debtors Motors Liquidation Corporation, formerly known as General Motors Corporation, Remediation and Liability Management Company, Inc., and Environmental Corporate Remediation Company, Inc. (collectively, "Old GM"); the United States of America; and the State of Iowa. The Settlement Agreement resolves causes of action of the Iowa Department of Natural Resources against Old GM under Iowa Code section 455B.186(1); 567 Iowa Admin. Code 38.3(1) and 51.6 with respect to the GM AC Rochester Division Site in Sioux City, Iowa (the "Sioux City Site Site").

Under the Sioux City Site Settlement Agreement, Old GM will make a cash payment of $6,476,634 to EPA for remediation at the Sioux City Site Site.

The Department of Justice will receive, for a period of thirty days from the date of this publication, comments relating to the Sioux City Site Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Motors Liquidation Corp., et al.,* D.J. Ref. 90–11–3–09754. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Sioux City Site Settlement Agreement may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Floor, New York, New York 10007, and at the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. During the public comment period, the Sioux City Site Settlement Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* Copies of the Sioux City Site Settlement Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood

(*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, please forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–31866 Filed 12–17–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Resource Conservation and Recovery Act

Notice is hereby given that on December 14, 2010, a proposed Scatterfield Consent Decree and Settlement Agreement ("Scatterfield Settlement Agreement") in the bankruptcy matter, *Motors Liquidation Company, et al., f/k/a General Motors Corp., et al.,* Jointly Administered Case No. 09–50026 (REG), was lodged with the United States Bankruptcy Court for the Southern District of New York. The Parties to the Scatterfield Settlement Agreement are debtors Motors Liquidation Corporation, formerly known as General Motors Corporation, Remediation and Liability Management Company, Inc., and Environmental Corporate Remediation Company, Inc. (collectively, "Old GM"); the United States of America; and the State of Indiana. The Settlement Agreement resolves causes of action of the Environmental Protection Agency ("EPA") and the Indiana Department of Natural Resources ("IDNR") against Old GM under the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901–6992k, with respect to the Delphi E & E Management Systems Site at 2900 South Scatterfield Road, in Anderson, Indiana (the "Scatterfield Site").

Under the Scatterfield Settlement Agreement, Old GM will make a cash payment of $3,599,039 to a trust created pursuant to 40 CFR Section 264.151(a)(1) for remediation at the Scatterfield Site.

The Department of Justice will receive, for a period of thirty days from the date of this publication, comments relating to the Scatterfield Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Motors Liquidation Corp., et al.,* D.J. Ref. 90–11–3–09754. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Scatterfield Settlement Agreement may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Floor, New York, New York 10007, and at the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. During the public comment period, the Scatterfield Settlement Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* Copies of the Scatterfield Settlement Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, please forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–31806 Filed 12–17–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under The Resource Conservation and Recovery Act

Notice is hereby given that on December 14, 2010, a proposed Delphi Harrison Consent Decree and Settlement Agreement ("Delphi Harrison Settlement Agreement") in the bankruptcy matter, *Motors Liquidation Company, et al., f/k/a General Motors Corp., et al.,* Jointly Administered Case No. 09–50026 (REG), was lodged with the United States Bankruptcy Court for the Southern District of New York. The Parties to the Delphi Harrison Settlement Agreement are debtors Motors Liquidation Corporation, formerly known as General Motors Corporation, Remediation and Liability Management Company, Inc., and Environmental Corporate Remediation Company, Inc. (collectively, "Old GM"); the United States of America; and the State of Ohio. The Settlement Agreement resolves causes of action of the Environmental Protection Agency ("EPA") against Old GM under the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901–6992k, with respect to the Delphi Harrison Thermal Superfund Site in Montgomery County, Dayton, Ohio (the "Delphi Harrison Site").

Under the Delphi Harrison Settlement Agreement, Old GM will make a cash payment of $5,329,343 to Ohio EPA for remediation at the Delphi Harrison Site.

The Department of Justice will receive, for a period of thirty days from the date of this publication, comments relating to the Delphi Harrison Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Motors Liquidation Corp., et al.,* D.J. Ref. 90–11–3–09754. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Delphi Harrison Settlement Agreement may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Floor, New York, New York 10007, and at the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. During the public comment period, the Delphi Harrison Settlement Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* Copies of the Delphi Harrison Settlement Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, please forward a check

in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–31807 Filed 12–17–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on December 14, 2010, a proposed Harvey & Knott Consent Decree and Settlement Agreement ("Harvey & Knott Settlement Agreement") in the bankruptcy matter, *Motors Liquidation Company, et al., f/k/a General Motors Corp., et al.,* Jointly Administered Case No. 09–50026 (REG), was lodged with the United States Bankruptcy Court for the Southern District of New York. The Parties to the Harvey & Knott Settlement Agreement are debtors Motors Liquidation Corporation, formerly known as General Motors Corporation, Remediation and Liability Management Company, Inc., and Environmental Corporate Remediation Company, Inc. (collectively, "Old GM"); and the United States of America. The Settlement Agreement resolves claims and causes of action of the Environmental Protection Agency ("EPA") against Old GM under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601–9675 with respect to the Harvey & Knott Drum Superfund Site in New Castle County, Delaware (the "Harvey & Knott Site").

Under the Harvey & Knott Settlement Agreement, Old GM will make a cash payment of $2,484,816 to EPA for remediation at the Harvey & Knott Site. EPA will also receive an allowed general unsecured claim $377,063 for estimated future oversight costs at the Harvey & Knott Site.

The Department of Justice will receive, for a period of thirty days from the date of this publication, comments relating to the Harvey & Knott Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Motors Liquidation Corp., et al.,* D.J. Ref. 90–11–3–09754. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Harvey & Knott Settlement Agreement may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Floor, New York, New York 10007, and at the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. During the public comment period, the Harvey & Knott Settlement Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html*. Copies of the Harvey & Knott Settlement Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.00 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, please forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–31803 Filed 12–17–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on December 14, 2010, a proposed Garland Road Consent Decree and Settlement Agreement ("Garland Road Settlement Agreement") in the bankruptcy matter, *Motors Liquidation Company, et al., f/k/a General Motors Corp., et al.,* Jointly Administered Case No. 09–50026 (REG), was lodged with the United States Bankruptcy Court for the Southern District of New York. The Parties to the Garland Road Settlement Agreement are debtors Motors Liquidation Corporation, formerly known as General Motors Corporation, Remediation and Liability Management Company, Inc., and Environmental Corporate Remediation Company, Inc. (collectively, "Old GM"); the United States of America; and the State of Ohio. The Settlement Agreement resolves claims and causes of action of the Environmental Protection Agency ("EPA") and the Ohio Environmental Protection Agency ("Ohio EPA") against Old GM under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601–9675 with respect to the Garland Road Landfill Superfund Site in Miami County, Ohio (the "Garland Road Site").

Under the Garland Road Settlement Agreement, Old GM will make a cash payment of $6,732,895 to Ohio EPA for remediation at the Garland Road Site. EPA will receive an allowed general unsecured claim of $2,505,547 for estimated future oversight costs and for unreimbursed past response costs at the Delphi Harrison Site. Ohio EPA will receive an allowed general unsecured claim for $134,326 for unreimbursed past response costs at the Delphi Harrison Site.

The Department of Justice will receive, for a period of thirty days from the date of this publication, comments relating to the Garland Road Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Motors Liquidation Corp., et al.,* D.J. Ref. 90–11–3–09754. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Garland Road Settlement Agreement may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Floor, New York, New York 10007, and at the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. During the public comment period, the Garland Road Settlement Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* Copies of the Garland Road Settlement Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of

$5.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, please forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2010–31808 Filed 12–17–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. L.B. Foster Company and Portec Rail Products, Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *L.B. Foster Company and Portec Rail Products, Inc.,* Civil Action No. 1:10–cv–02115. On December 14, 2010, the United States filed a Complaint alleging that the proposed acquisition by L.B. Foster Company ("Foster") of Portec Rail Products, Inc. ("Portec") would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires Foster to divest Portec's entire rail joint operations (excluding some assets in the United Kingdom), including Portec's manufacturing facility located in Huntington, West Virginia and tangible and intangible assets associated with Portec's rail joints, as well as assets used to manufacture and sell certain other related and complementary products currently manufactured at the Huntington facility. The proposed Final Judgment requires that these assets be sold to Koppers Inc. Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street, NW., Suite 1010, Washington, DC 20530 (telephone: (202) 514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr,* and at the Office of the Clerk of the United States District Court for District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations. Public comment is invited within 60 days of the date of this notice. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 450 Fifth Street, NW., Suite 8700, Washington, DC 20530 (telephone: (202) 307–0924).

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the District Of Columbia

United States of America, United States Department of Justice, Antitrust Division, 450 Fifth Street, NW., Suite 8700, Washington, DC 20530, Plaintiff

v.

L.B. Foster Company, 415 Holiday Drive, Pittsburgh, Pennsylvania 15220, and Portec Rail Products, Inc., 900 Old Freeport Road, Pittsburgh, Pennsylvania 15238, Defendants.

Case: 1:10–cv–02115.
Assigned To: Urbina, Ricardo M.
Assign. Date: 12/14/2010.
Description: Antitrust.

Complaint

The United States of America ("United States"), acting under the direction of the Attorney General of the United States, brings this civil antitrust action against Defendants L.B. Foster Company ("Foster") and Portec Rail Products, Inc. ("Portec") to enjoin Foster's proposed acquisition of Portec and to obtain other equitable relief. The United States complains and alleges as follows:

I. Nature of the Action

1. On February 16, 2010, Foster and Portec entered into an Agreement and Plan of Merger ("Merger Agreement"). Pursuant to the Merger Agreement, on February 26, 2010, Foster made a cash tender offer to acquire all the outstanding shares of common stock of Portec for $11.71 per share. On August 30, 2010, Foster increased its offer to $11.80 per share. The transaction is valued at approximately $114 million.

2. In the United States, Foster's proposed acquisition of Portec likely would substantially lessen competition in two separate product markets—bonded insulated rail joints ("bonded joints") and polyurethane-coated insulated rail joints ("poly joints"). Foster and Portec are virtually the only manufacturers of bonded joints in the United States and currently supply approximately 95 percent of the market. For many customers, Foster and Portec are the only approved suppliers of these joints. In addition, Foster and Portec are two of only three suppliers of poly joints in the United States and currently supply approximately 54 percent of the market.

3. Elimination of the competition between Foster and Portec likely will result in Foster's ability to unilaterally raise prices of bonded joints and poly joints to most customers. The proposed acquisition also likely would reduce Foster's incentive to invest in innovation in bonded joints. In addition, by eliminating Portec as a supplier, the acquisition increases the likelihood of coordinated interaction between Foster and the other supplier of poly joints.

4. As a result, the proposed acquisition likely would substantially lessen competition in the development, manufacture, and sale of bonded joints and in the development, manufacture, and sale of poly joints in the United States, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

II. The Defendants

5. Foster is incorporated in Pennsylvania and has its headquarters in Pittsburgh, Pennsylvania. It manufactures and distributes numerous products and services for the rail, construction, energy, and utility industries and has approximately 30 locations throughout the United States. For the rail industry, Foster manufactures, among other products, bonded joints, poly joints, tie plates, and rails. Foster had total revenues of approximately $512 million in 2008 and approximately $382 million in 2009.

6. Portec is incorporated in West Virginia and has its headquarters in Pittsburgh, Pennsylvania. Portec also manufactures and distributes numerous products and services for the rail industry and other industries. For the rail industry, Portec manufactures, among other things, bonded joints, poly joints, rail lubricators, end posts, and curv blocks. Portec has several locations in the United States and abroad. Portec had total revenues of approximately $109 million in 2008 and approximately $92.2 million in 2009.

III. Jurisdiction and Venue

7. The United States brings this action under Section 15 of the Clayton Act, 15 U.S.C. 4 and 25, as amended, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. 18.

8. Defendants develop, manufacture, and sell bonded joints, poly joints, and other products in the flow of interstate commerce. Defendants' activities in the

development, manufacture, and sale of these products substantially affect interstate commerce. This Court has subject matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337(a), and 1345.

9. Defendants have consented to venue and personal jurisdiction in this judicial district.

IV. Trade and Commerce

A. Background

(1) Insulated Rail Joints

10. Railroad tracks are divided into discrete sections, called track circuits. Electricity flows through the rail in each track circuit. Each track circuit is electrically isolated from the others. As the train enters a track circuit, the circuit allows the train to signal that it is passing through that particular circuit, which leads to the operation of automatic signals at rail crossings and switches farther up the line. The track circuit also enables the railroad operator to monitor the location of the trains.

11. Railroad tracks are generally welded together, within a track circuit, forming the strongest possible bond. However, welding cannot be used to connect the pieces of rail between separate track circuits because that would allow the electric current to flow between the circuits and interfere with a train's signaling. Using an insulated rail joint is the only method available to connect the rail pieces at the ends of the track circuits and insulate the circuits from one another. Rail joints consist of steel bars that are bolted onto the ends of each of the rail pieces and are used to connect the abutting ends of the rails. Insulated rail joints are joints that are used to break the electric current flowing through the rail, using a material placed on the steel bars and between the two abutting pieces of rail.

12. The reliability of an insulated rail joint is critical to the safety and efficient operation of the railroad. It is difficult to develop and manufacture insulated rail joints that can successfully withstand railroads' usage without failing, particularly in the most demanding applications. Rail connected by a rail joint is inherently weaker than rail that has been welded together. If the joint is subjected to heavy usage—for example, because the track it is on frequently carries heavily loaded rail cars—the joint may wear down over time and eventually break. In addition, an insulated rail joint may lose its insulating properties. If an insulated rail joint fails, the railroad operator will not know the location of the train and the signals will not operate properly. At the extreme, the failure of an insulated rail joint could cause a train derailment. At the least, failure of an insulated rail joint could cause the railroad to expend significant amounts of money determining the location of and replacing the failed joints. It could also bring the operation of the railroad to a halt while the failed joints are replaced.

13. Ensuring that the insulated rail joints will last for the expected life of the joint without failure is vital to the railroads. It is costly to replace these joints and an unscheduled replacement can disrupt the operations of the railroad. As a result, the largest U.S. railroads, called Class 1 railroads, engage in extensive, multi-year testing to ensure that any new insulated rail joint, or any insulated rail joint offered by a new supplier, will meet their reliability and quality needs. The railroads must be assured that the joints are designed to last and the supplier's manufacturing processes are sufficiently well controlled that all joints will last the requisite time without failing.

14. Railroads gain substantially from improvements in the reliability and effective life of insulated rail joints. Therefore, railroads have made research and development associated with these joints an important component of the competitive process. Manufacturers must make substantial investments in research and development to compete effectively for the business of the major railroads.

15. The two primary types of insulated rail joints are bonded joints and poly joints. Customers seek bids for either bonded joints or poly joints, based on the particular application.

(2) Bonded Joints

16. Bonded joints use epoxy in addition to bolts to bind the steel bars to the rails. With the addition of epoxy, the rails, bars, bolts, and insulating material that make up the joint are less subject to movement when a railcar passes over the joint and thus suffer less wear and tear. As a result, bonded joints are able to withstand the heaviest loads for extended periods of time. Because of their strength, certain of Foster's and Portec's bonded joints typically are guaranteed to last until 500 million gross tons have passed over the joints.

17. The strength of bonded joints makes them necessary for the freight railroads' high-usage main track lines. This is especially true for the Class 1 railroads, which handle most of the heavy rail traffic in the United States. No other insulated rail joint is strong enough to withstand the heavy loads on these lines. Bonded joints are also necessary for some heavily traveled areas on main passenger lines and regional and short line railroads.

(3) Poly Joints

18. Poly joints can be used to electrically isolate track circuits from one another. In contrast to bonded joints, poly joint components are not bound together by epoxy. Instead, electrical insulation in poly joints is provided by a polyurethane-covered bar that is bolted to the rail. No mechanism is added to provide additional strength, and nothing binds the joint to the rails except the bolts. Poly joints are not as strong and long lasting as bonded joints. They are significantly less expensive than bonded joints.

19. Poly joints are generally used by Class 1 railroads to create track circuits in areas with lesser loads and traffic than on the main tracks, or on other less-heavily used sections of track. Poly joints also may be used as temporary replacements for bonded joints, but only until bonded joints can be installed. In addition, poly joints are used by some passenger railroads or other smaller railroads, which carry less weight on their tracks.

B. Relevant Markets

(1) Bonded Joints

20. The development, manufacture, and sale of bonded joints in the United States is a line of commerce and relevant market within the meaning of Section 7 of the Clayton Act.

21. Bonded joints have specific applications, for which other types of joints can rarely, if ever, be employed. Bonded joints are typically used on the main tracks of the freight railroads. Other types of joints, such as poly joints, cannot handle over time the heavy loads on these tracks because they are not strong enough.

22. The vast majority of Foster's and Portec's sales of bonded joints are made to large customers located in the United States. Major U.S. customers consider only those suppliers of bonded joints located in the United States because of these suppliers' proximity to their rail lines. A supplier's proximity to customers' rail lines reduces both freight costs, which are a significant factor in the final cost of a bonded joint, and delivery times, and allows better customer service.

23. A small but significant increase in the price of bonded joints would not cause U.S. customers of bonded joints to substitute a different joint or other product, reduce purchases of bonded joints, or turn to suppliers outside the United States, in volumes sufficient to make such a price increase unprofitable.

(2) Poly Joints

24. The development, manufacture, and sale of poly joints in the United States is a line of commerce and relevant market within the meaning of Section 7 of the Clayton Act.

25. A customer whose requirements will be satisfied by a poly joint would rarely, if ever, substitute a bonded joint, even if the price of poly joints were to rise.

26. The three primary suppliers of poly joints in the United States ship poly joints to customers located throughout the United States. Because all three suppliers are located within approximately 200 miles of one another, customers pay only minimal differences in freight costs. U.S. customers of poly joints consider only those suppliers located in the United States to avoid higher freight costs, reduce delivery times, and allow better customer service.

27. A small but significant increase in the price of poly joints would not cause U.S. customers of poly joints to substitute a different joint or other product, reduce purchases of poly joints, or turn to suppliers outside the United States, in volumes sufficient to make such a price increase unprofitable.

C. Market Participants

(1) Bonded Joints

28. Foster and Portec are the only significant competitors in the U.S. market for bonded joints. Currently, Foster and Portec sell approximately 51 and 44 percent, respectively, of U.S. bonded joints. One other company accounts for the remaining five percent of this market. In addition, this third competitor does not have the same commitment to research and development as Foster and Portec. As a result, the combination of Foster and Portec will create a virtual monopoly in the U.S. market for bonded joints.

(2) Poly Joints

29. Foster, Portec, and one other company are the only competitors in the U.S. market for poly joints. Currently, Foster and Portec sell approximately 21 and 33 percent, respectively, of U.S. poly joints. The third competitor accounts for the remaining sales in this market.

V. Competitive Effects

A. Bonded Joints

30. Foster's proposed acquisition of Portec likely would substantially lessen competition in the U.S. market for bonded joints. Foster and Portec are the two primary suppliers of bonded joints to most U.S. customers. If the acquisition is not enjoined, the combined firm would supply approximately 95 percent of the bonded joints in the United States. Using a measure called the Herfindahl-Hirschman Index ("HHI") (explained in Appendix A), the HHI would increase by approximately 4,500 points, resulting in a post-acquisition HHI of more than 9,000 points.

31. Foster's and Portec's bidding behavior often has been constrained by the possibility of losing sales of bonded joints to the other. For many customers of bonded joints, Foster and Portec are either the only sources, or the two best sources.

32. Customers have benefitted from the competition between Foster and Portec for sales of bonded joints by receiving lower prices. In addition, Foster and Portec have competed vigorously by providing innovations that have resulted in higher-quality and longer-lasting joints. The combination of Foster and Portec would eliminate this competition and its future benefits to customers. Post-acquisition, Foster likely would have the incentive and gain the ability profitably to increase prices, reduce quality, reduce innovation, and provide less customer service compared to these aspects of competition absent the acquisition. The small remaining competitor has limited customer acceptance and would not have the ability to make additional sales sufficient to discipline post-acquisition anticompetitive effects.

33. The proposed acquisition, therefore, likely would substantially lessen competition in the United States for the development, manufacture, and sale of bonded joints. This likely would lead to higher prices, lower quality, less customer service, and less innovation in violation of Section 7 of the Clayton Act.

B. Poly Joints

34. Foster's proposed acquisition of Portec likely would substantially lessen competition in the U.S. market for poly joints. If the acquisition is not enjoined, the combined firm would supply approximately 54 percent of the poly joints in the United States. The HHI would increase by more than 1,300 points, resulting in a post-acquisition HHI of more than 5,000 points.

35. Foster's and Portec's bidding behavior often has been constrained by the possibility of losing sales of poly joints to the other.

36. Customers have benefitted from competition between Foster, Portec, and the other competitor by receiving lower prices. The products of the three firms are to some degree different, and the elimination of Portec likely would allow the two remaining competitors to increase prices. The combination of Foster and Portec would eliminate the significant competition between Foster and Portec and its future benefits to customers. Post-acquisition, Foster likely would have the incentive and gain the ability to profitably increase prices and provide less customer service compared to these aspects of competition absent the acquisition.

37. In addition, by reducing the number of competitors in the U.S. market for poly joints from three to two, Foster and its only remaining competitor likely would gain the incentive and ability to raise prices through coordinated interaction by directly increasing prices, allocating customers, or restricting output or capacity. Coordination would be more likely or more effective because, with two significant competitors in the market, both could be reasonably certain of the identity of the other's customers, likely making cheating, such as discounting, easier to detect and discipline.

38. The proposed acquisition, therefore, likely would substantially lessen competition in the United States for the development, manufacture, and sale of poly joints. This likely would lead to higher prices and less customer service in violation of Section 7 of the Clayton Act.

VI. Difficulty of Entry

A. Bonded Joints

39. Sufficient, timely entry of additional competitors into the U.S. market for bonded joints is unlikely. Therefore, entry or the threat of entry into this market is not likely to prevent the harm to competition caused by the elimination of Portec as a supplier.

40. Firms attempting to enter the U.S. market for the development, manufacture, and sale of bonded joints face several significant impediments to rapid, successful, and profitable entry. The new supplier of bonded joints must develop and successfully operate a production process that consistently produces a large number of high-quality bonded joints that meet the rigorous specifications set by the railroads. In addition, a new entrant must be committed to investing in research and development to meet the railroads' ongoing desire for innovation. The design for bonded joints is continually evaluated in order to improve the strength and longevity of the joints. The technical know-how and expertise necessary to consistently manufacture a large number of high-quality bonded

joints and to design improvements that pass customers' qualification tests are difficult to obtain and learned only after years of direct experience.

41. Further, a new supplier's bonded joint must pass potential customers' approval processes by demonstrating that the joints can meet rigorous quality and performance standards and perform well over time with heavy freight loads. For example, many railroads, especially the Class 1 railroads, insist that new bonded joints undergo laboratory testing plus several years of in-track testing. Railroads want to observe that the joints perform well over time before installing a significant number on their tracks. Moreover, attempts for approval are not guaranteed to be successful, and the approval process can take several years, especially if the first few attempts for approval are not successful. Because each customer's specifications may be unique, approval by one customer does not guarantee approval by any other customer.

42. For these reasons, entry by new firms or the threat of entry by new firms into the U.S. market for the development, manufacture, and sale of bonded joints would not defeat the substantial lessening of competition that likely would result if Foster acquires Portec.

B. Poly Joints

43. Sufficient, timely entry into the U.S. market for poly joints is also unlikely. Therefore, entry or the threat of entry into this market is not likely to prevent the harm to competition caused by the elimination of Portec as a supplier.

44. The expertise to design and implement a process to manufacture a large number of high-quality poly joints on a consistent basis is difficult to obtain and takes years of experience to develop. In addition, a new poly joint supplier must obtain approvals from the railroads by demonstrating that its joints can meet the railroads' rigorous quality and performance standards. This rigorous approval process can take eighteen months or more. Further, attempts for approval are not guaranteed to be successful and can take several years, especially if the first few attempts for approval are unsuccessful.

45. For these reasons, entry by new firms or the threat of entry by new firms into the U.S. market for the development, manufacture, and sale of poly joints would not defeat the substantial lessening of competition that would likely result if Foster acquires Portec.

VII. The Proposed Acquisition Violates Section 7 of the Clayton Act

46. Foster's proposed acquisition of Portec likely would substantially lessen competition in the development, manufacture, and sale of bonded joints and the development, manufacture, and sale of poly joints in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

47. Unless enjoined, the proposed acquisition likely would have the following anticompetitive effects, among others:

(a) Actual and potential competition between Foster and Portec in the markets for the development, manufacture, and sale of bonded joints and the development, manufacture, and sale of poly joints in the United States would be eliminated;

(b) Competition in the markets for the development, manufacture, and sale of bonded joints and the development, manufacture, and sale of poly joints in the United States likely would be substantially lessened;

(c) For bonded joints in the United States, prices likely would increase and quality, customer service, and innovation likely would decrease; and

(d) For poly joints in the United States, prices likely would increase and customer service likely would decrease.

VIII. Requested Relief

48. The United States requests that this Court:

(a) Adjudge and decree that Foster's acquisition of Portec would be unlawful and violate Section 7 of the Clayton Act, 15 U.S.C. 18;

(b) Preliminarily and permanently enjoin and restrain Defendants and all persons acting on their behalf from consummating the proposed acquisition of Portec by Foster, or from entering into or carrying out any other contract, agreement, plan, or understanding, the effect of which would be to combine Foster with Portec;

(c) Award the United States its costs for this action; and

(d) Award the United States such other and further relief as the Court deems just and proper.

For Plaintiff United States of America:
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Molly S. Boast,
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Dated: December 14, 2010.

Appendix A

Definition of HHI

The term "HHI" means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2{,}600$). The HHI takes into account the relative size distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 points when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1,500 and 2,500 points are considered to be moderately concentrated, and markets in which the HHI is in excess of 2,500 points are considered to be highly concentrated. *See Horizontal Merger Guidelines* § 5.3 (issued by the U.S. Department of Justice and the Federal Trade Commission on Aug. 19, 2010). Transactions that increase the HHI by more than 200 points in highly concentrated markets will be presumed likely to enhance market power. *Id.*

United States District Court for the District of Columbia

United States of America, Plaintiff

v.

L.B. Foster Company and *Portec Rail Products, Inc,*. Defendants.
Case: 1:10–cv–02115.
Assigned To: Urbina, Ricardo M.
Assign. Date: 12/14/2010.
Description: Antitrust.

Competitive Impact Statement

Plaintiff United States of America ("United States"), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

Defendants L.B. Foster Company ("Foster") and Portec Rail Products, Inc. ("Portec") entered into an Agreement and Plan of Merger, dated February 16, 2010. Pursuant to the Merger Agreement, on February 26, 2010, Foster made a cash tender offer to acquire all the outstanding shares of common stock of Portec for $11.71 per share. Foster later

increased its offer to $11.80 per share. The transaction value is currently approximately $114 million.

The United States filed a civil antitrust Complaint on December 14, 2010, seeking to enjoin the proposed acquisition, alleging that it likely would substantially lessen competition in two separate product markets—bonded insulated rail joints ("bonded joints") and polyurethane-coated insulated rail joints ("poly joints")—in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. Foster and Portec are virtually the only manufacturers of bonded joints in the United States. The loss of competition from the acquisition likely would result in higher prices, lower quality, less customer service, and less innovation in the development, manufacture, and sale of bonded joints in the United States. In addition, Foster and Portec are two of only three suppliers of poly joints in the United States. The loss of competition from the acquisition likely would result in higher prices and less customer service in the development, manufacture, and sale of poly joints in the United States.

At the same time the Complaint was filed, the United States filed a Hold Separate Stipulation and Order ("Hold Separate") and proposed Final Judgment, which are designed to eliminate the anticompetitive effects that would result from Foster's acquisition of Portec. Under the proposed Final Judgment, which is explained more fully below, Foster is required to divest Portec's entire rail joint business,[1] including Portec's only U.S. manufacturing facility, located in Huntington, West Virginia. Foster is also required to divest several other products currently manufactured in Portec's Huntington facility. Under the terms of the Hold Separate, Foster's and Portec's operations will remain entirely separate until the divestiture takes place. Pursuant to the Hold Separate, Foster and Portec must take certain steps to ensure that the assets being divested continue to be operated in a competitively and economically viable manner and that competition for the products being divested is maintained during the pendency of the divestiture.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violations

A. The Defendants

Foster manufactures and distributes numerous products and services for the rail, construction, energy, and utility industries. For the rail industry, Foster manufactures, among other products, bonded joints, poly joints, tie plates, and rails. Foster had total revenues of approximately $512 million in 2008 and approximately $382 million in 2009. Foster supplies approximately 51 percent of the bonded joints and 21 percent of the poly joints in the United States.

Portec also manufactures and distributes numerous products and services for the rail industry and other industries. For the rail industry, Portec manufactures, among other things, bonded joints, poly joints, rail lubricators, end posts, and curv blocks. Portec had total revenues of approximately $109 million in 2008 and approximately $92.2 million in 2009. Portec supplies approximately 44 percent of the bonded joints and 33 percent of the poly joints in the United States.

B. The Competitive Effects of the Acquisition on the U.S. Markets for Bonded Joints and Poly Joints

1. Relevant Markets

Railroad tracks are divided into discrete sections, called track circuits. Electricity flows through the rail in each track circuit, and each track circuit is electrically isolated from the others. As the train enters a track circuit, the circuit allows the train to signal that it is passing through that particular circuit, which leads to the operation of automatic signals at rail crossings and switches. The track circuits also enable the railroad operator to monitor the location of the trains. Most pieces of railroad track are welded together within a track circuit, forming the strongest possible bond. However, welding cannot be used to connect the pieces of rail between separate track circuits because that would allow the electric current to flow between the circuits and interfere with the train's signaling. Using an insulated rail joint is the only method available to connect the rail pieces at the ends of the track circuits and insulate the circuits from one another. Rail joints consist of steel bars that are bolted onto the ends of each of the rail pieces and are used to connect the abutting ends of the rails. Insulated rail joints contain material placed on the steel bars and between the two abutting pieces of rail, which prevents the electric current from flowing between the track circuits.

The reliability of an insulated rail joint is critical to the safety and efficient operation of the railroad. It is difficult to develop and manufacture insulated rail joints that can successfully withstand railroads' usage without failing, particularly in the most demanding applications. Rail connected by a rail joint is inherently weaker than rail that has been welded together, and if the joint is subjected to heavy usage, the joint may wear down over time and eventually break. An insulated rail joint may also lose its insulating properties over time. The consequences of a failed insulated joint can be quite serious, as the railroad operator will not know the location of the train and the signals will not operate properly.

It is vital to the railroads that insulated rail joints last for their expected life without failure. To that end, the largest U.S. railroads engage in extensive, multi-year testing to ensure than any new insulated rail joint product, or any insulated rail joint offered by a new supplier, will meet their reliability and quality needs. The railroads must be assured that the joints are designed to last and the supplier's manufacturing processes are sufficiently well controlled that all joints will last the requisite time without failing. Railroads gain substantially from improvements in the reliability and effective life of joints. Consequently, research and development is an important component of the competitive process, and insulated joint manufacturers must make substantial investments in research and development to compete effectively for sales to the major railroads.

The two primary types of insulated rail joints are bonded joints and poly joints. Customers seek bids for either bonded joints or poly joints, based on the particular application. Bonded joints use epoxy in addition to bolts to bind the steel bars to the rails. With the addition of epoxy, the rails, bars, bolts, and insulating material that make up the joint are less subject to movement when a railcar passes over the joint, and thus suffer less wear and tear. Bonded joints are able to withstand the heaviest loads for extended periods of time, and are typically guaranteed to last until 500 million gross tons have passed over them.

Because of their strength, bonded joints are necessary for the freight railroads' high-usage main track lines. This is especially true for the Class 1 railroads, which are the largest U.S. railroads and handle most of the heavy freight rail traffic in the United States. No other insulated rail joint is strong enough to withstand the heavy loads on these lines over time. Bonded joints are also necessary for some heavily traveled areas on main passenger lines and regional and short line railroads. Bonded joints have specific applications, for which any other type of joint can rarely, if ever, be employed.

The vast majority of Foster's and Portec's sales of bonded joints are made to large customers located in the United States. Major U.S. customers consider only those suppliers of bonded joints located in the United States because of these suppliers' proximity to their rail lines, which significantly reduces both freight costs and delivery times and allows better customer service. A small but significant increase in the price of bonded joints would not cause U.S. customers of bonded joints to substitute a different joint or any other type of product, reduce purchases of bonded joints, or turn to suppliers outside the United States, in volumes sufficient to make such a price increase unprofitable. Thus, the development, manufacture, and sale of bonded joints in the United States is a line of commerce and relevant market within the meaning of Section 7 of the Clayton Act.

Like bonded joints, poly joints also are used to electrically isolate track circuits. Unlike bonded joints, the electrical insulation in poly joints is provided by a polyurethane-covered bar that is bolted to the rail. The joint components are not bound together by epoxy, and no mechanism is added to provide additional strength to the joint. Poly joints are not as strong and do not last as long as bonded joints. They are also

[1] This excludes, however, Portec's Coronet products, which are manufactured in the United Kingdom. The Coronet rail joints are based on different specifications than the rail joints manufactured and sold by Portec in the United States. In addition, the Coronet rail joints have never been sold in the United States.

significantly less expensive than bonded joints. Because they are weaker than bonded joints, freight railroads typically use poly joints to create track circuits in areas with lesser loads and traffic than on the main tracks or on other less-heavily used sections of track. Poly joints also may be used as temporary replacements for bonded joints, but only until bonded joints can be installed. Poly joints are used by some passenger railroads or other smaller railroads, which carry less weight on their tracks. A customer whose requirements will be satisfied by a poly joint would rarely, if ever, substitute a bonded joint, even if the price of poly joints were to rise.

The three primary suppliers of poly joints in the United States ship poly joints to customers located throughout the United States. Because all three suppliers are located within approximately 200 miles of one another, customers pay only minimal differences in freight costs. U.S. customers of poly joints consider only those suppliers located in the United States to avoid higher freight costs, reduce delivery times, and allow better customer service.

A small but significant increase in the price of poly joints would not cause U.S. customers of poly joints to substitute a different joint or any other type of product, otherwise reduce purchases of poly joints, or turn to suppliers outside the United States, in volumes sufficient to make such a price increase unprofitable. Thus, the development, manufacture, and sale of poly joints in the United States is a line of commerce and relevant market within the meaning of Section 7 of the Clayton Act.

2. Anticompetitive Effects

Foster's acquisition of Portec likely would substantially lessen competition in the United States for bonded joints and poly joints. For most U.S. customers of bonded joints, Portec and Foster are the two primary suppliers and are often the only suppliers. Currently, Foster and Portec sell approximately 51 and 44 percent, respectively, of U.S. bonded joints. One other company, which does not have the same commitment to research and development as Foster and Portec, accounts for the remaining five percent of sales. If the acquisition is not enjoined, the combined firm would supply approximately 95 percent of bonded joints in the United States and would have a virtual monopoly in that market. Using a measure called the Herfindahl/Hirschman Index ("HHI"), the HHI would increase by approximately 4,500 points, resulting in a post-acquisition HHI of more than 9,000 points.

The possibility of losing sales of bonded joints to each other has often constrained Foster's and Portec's bidding behavior. The competition between Foster and Portec for sales of bonded joints has resulted in lower prices and innovations that have produced higher-quality and longer-lasting joints. Without the competition provided by Portec on bonded joints, Foster would have the incentive and gain the ability profitably to increase prices, reduce quality, reduce innovation, and provide less customer service. The remaining competitor, with only five percent of bonded joint sales, has limited customer acceptance and would not be able to increase its sales post-acquisition sufficiently to discipline the anticompetitive effects of the acquisition.

For most U.S customers, Foster and Portec are two of only three suppliers of poly joints. Currently, Foster and Portec sell approximately 21 and 33 percent, respectively, of poly joints in the United States. The third competitor accounts for the remaining sales in this market. If the acquisition is not enjoined, the combined firm would supply approximately 54 percent of poly joints in the United States. The HHI would increase by more than 1,300 points, resulting in a post-acquisition HHI of more than 5,000 points. The possibility of losing sales of poly joints to each other has often constrained Foster's and Portec's bidding behavior. Competition among the three poly joint suppliers has resulted in lower prices. As the products of the three companies are to some degree different, the acquisition of Portec likely will eliminate the closest competitor to Foster for some customers and thus allow the two remaining competitors to increase prices. Also, because the price levels and the dollar magnitude of the margins are higher for bonded joints than poly joints, any sales diverted from poly joints to bonded joints offer the prospect of additional profits to the merged firm. The acquisition of Portec by Foster would eliminate the significant competition between Foster and Portec and its future benefits to customers. Post-acquisition Foster likely would have the incentive and gain the ability to profitably increase prices and provide less customer service.

If the number of competitors in the U.S. poly joint market is reduced from three to two, Foster and its only remaining competitor will have the incentive and ability to raise prices through coordinated interaction by directly increasing prices, allocating customers, or restricting output or capacity. Unlike in the bonded joint market where post-acquisition Foster will have close to a monopoly, coordination will be more likely or more effective in the poly joint market because, with two significant competitors, both could be reasonably certain of the identity of each other's customers, likely making cheating, such as discounting, easier to detect and discipline. The enhanced ability to detect cheating would be facilitated by, among other things, the fact that bids by public transit companies are often or usually made public.

3. Entry

Sufficient, timely entry of additional competitors into either the U.S bonded joint market or the U.S. poly joint market is unlikely, and the threat of entry thus will not prevent the likely competitive harm resulting from Foster's acquisition of Portec. For bonded joints, rapid, successful, and profitable entry requires that a new supplier develop and successfully operate a production process that consistently produces a large number of high-quality bonded joints that meet the railroads' rigorous specifications. A new supplier of bonded joints also must invest in research and development to meet the railroads' desire for innovation and increased strength and longevity. These capabilities are difficult to obtain, and it takes years for a joint manufacturer to develop the know-how and expertise required to meet customers' qualification requirements. Further, many Class 1 railroads insist that new bonded joints undergo not only laboratory testing, but also several years of in-track testing on the railroads' lines, to ensure that the joints meet the railroads' performance standards under actual usage conditions. Attempts by suppliers to meet a Class 1 railroad's requirements may not be successful, and approval by one railroad does not guarantee approval by others.

Similarly, a new supplier of poly joints in the United States must develop the expertise to manufacture a large number of joints on a consistent base, which could take years. A new poly joint supplier must obtain approvals from its customers, whose rigorous approval processes can take eighteen months or more. Approval by any customer cannot be assured, and approval by one customer does not guarantee approval by any other.

Therefore, entry by new firms or the threat of entry by new firms would not defeat the substantial lessening of competition in the development, manufacture, and sale of bonded joints and poly joints in the United States that likely would result from Foster's acquisition of Portec.

III. Explanation of the Proposed Final Judgment

The divestiture required by the proposed Final Judgment will eliminate the anticompetitive effects that likely would result from Foster's acquisition of Portec. This divestiture will preserve competition in the development, manufacture, and sale of bonded joints and the development, manufacture, and sale of poly joints by creating an independent, economically viable competitor to Foster in the United States for these products.

The acquirer of the divested assets will obtain from Defendants the assets it needs to replace the competition in the sale of bonded joints and poly joints that would be lost as a result of Foster's acquisition of Portec. The proposed Final Judgment requires Defendants to divest the assets used to manufacture and sell Portec's bonded joints and poly joints, including Portec's facility in Huntington, West Virginia, and the tangible and intangible assets used to manufacture and sell these joints. The tangible assets include, among other things, manufacturing equipment, tooling, inventory, and materials. The intangible assets include, among other things, patents, licenses, intellectual property, know-how, trade secrets, trade names, drawings, specifications, computer software, marketing and sales data, manuals and technical information, and research data. The divested assets will provide the acquirer with the assets it needs to successfully manufacture and sell bonded joints and poly joints in the United States.

This divestiture also ensures that the Huntington facility will be able to operate efficiently. Defendants are required to divest the assets used to manufacture and sell the following other Portec products currently manufactured at the Huntington facility: end

posts, polyurethane-coated gauge and tie plates, fiberglass joint kits, plastic insulation, standard rail joints, compromise and transitional rail joints, and Weldmate joint bars. These assets need to be divested because the products use the same inputs or machinery as bonded joints and poly joints or are closely related or complementary to the bonded joints and poly joints. The assets used to manufacture these related or complementary products will be sold to the acquirer so the acquirer's ability to continue producing bonded joints and poly joints efficiently at that facility will not be impaired. These products together constitute Portec's full line of rail joints and complementary products and will make the acquirer a stronger competitor than if it acquired only the bonded joint and poly joint assets. This full range of products will allow the Huntington facility to be operated as a viable standalone facility.

A few other Portec products currently being manufactured at the Huntington facility, primarily friction management products and Shipping Systems Division ("SSD") products, are not being divested. These products are not related to bonded joints and poly joints and do not use the same equipment or inputs. For example, the friction management and SSD products are merely assembled at Huntington from off-the-shelf parts. As a result, the products not being divested do not directly alter the efficient operation of the bonded joint and poly joint assets.

The proposed Final Judgment designates Koppers Inc. as the company to which the divested assets must be sold. While the United States does not generally require that the purchaser of the divested assets be identified and approved prior to and as a condition of settlement, the unique circumstances of this case necessitate such an approach. In many cases, numerous potential acquisition candidates would be acceptable to the customers and the United States. Also, acquirers in most cases would be able to continue selling the divested products without significant delays made necessary by extensive testing requirements. Here, the upfront designation of the acquirer ensures the sale will be made to an acquirer with the expertise and resources necessary to replace Portec immediately as a full-fledged competitor to Foster.

Because bonded joints and poly joints are critical to the safe and efficient operation of a railroad, customers must be confident that the acquirer of the divested assets will be able to maintain the current quality and long-term reliability of these joints. If the customers lack this confidence, they likely would conduct lengthy in-track testing before purchasing joints from a new supplier in significant quantities. Such lengthy testing periods could mean that the divested Portec joint businesses would not provide meaningful competition to Foster for several years, and, as a result, the divestiture would not remedy the competitive harm that would likely result from Foster's acquisition of Portec. The possibility that customers would require long testing periods before purchasing from an acquirer led the United States to require an acceptable acquirer prior to entering into a settlement.

Defendants presented Koppers to the United States as a potential acquirer of the divested assets. Foster and Koppers entered into an agreement for the purchase of the divested assets on December 9, 2010. Koppers is a global integrated producer of carbon compounds and treated and untreated wood products and services for use in a variety of industries, including the rail industry. In 2009, Koppers had total revenues of approximately $1.12 billion. Approximately 58 percent of its 2009 sales were generated in the United States. Koppers currently supplies all the Class 1 railroads. In addition, Koppers maintains relationships with many short-line and regional rail lines. Koppers has a strong relationship with the Class 1 railroads, an excellent reputation as a supplier to railroads, and is committed to research and development. The United States determined, after a thorough investigation, that railroad customers would be sufficiently confident in Koppers's ability consistently to manufacture quality bonded joints and poly joints and, therefore, would not be likely to insist upon a lengthy in-track testing period for these joints.

The United States typically requires that assets be divested within 60 to 90 days after the filing of the Complaint or five days after the entry of the Final Judgment by the Court. Because the acquirer of the divested assets has been selected and approved by the United States prior to the filing of the Complaint, there is no need for 60 to 90 days to engage in a search for an acquirer. Further, the United States has already reviewed the documents related to the divestiture. Accordingly, the proposed Final Judgment requires that the divested assets be sold to Koppers within ten days after the Court signs the Hold Separate.[2] The entry of the Hold Separate was chosen as the date upon which the divestiture period begins to run because Foster cannot consummate its acquisition of Portec until the Court enters the Hold Separate, and that acquisition must be consummated before the divested assets are sold.

The proposed Final Judgment prohibits Defendants from interfering with any negotiations by Koppers to employ any current or former Portec employee who is responsible in any way for the design, production, and sale of the products being divested. It also requires that Defendants waive any non-compete agreements for current or former employees involved in the design, production, and sale of the products being divested. The proposed Final Judgment also requires that the assets being divested be operational on the date of sale. In addition, the proposed Final Judgment requires that Defendants divest Portec's entire business relating to each of the divested products and not manufacture any products using the intangible assets divested pursuant to the proposed Final Judgment. To allow Foster time to remove the assets used for those products not being divested, the proposed Final Judgment allows Defendants to occupy that portion of the Huntington facility that is used to manufacture the products not being divested for sixty days from the date Foster acquires Portec.

Finally, the proposed Final Judgment requires that Defendants provide advance notice to the United States of any acquisition of the assets of or any interest in, any company in the business of designing, developing, producing, marketing, servicing, distributing, and/or selling bonded joints and/or poly joints, or any company in the business of producing, marketing, distributing, and/or selling friction management products; or any relationship with another company that involves the distribution of friction management products in North America.[3] Until very recently, Foster and Portec competed in the sale of friction management products in the United States. Few competitors sell these products in the United States. Portec is the leader in the development, production, and sale of certain friction management products. Foster was a distributor of friction management products for an overseas manufacturer and it recently terminated its relationship with that manufacturer. However, in the future Foster could begin selling friction management products made by that manufacturer or others. As a result, the proposed Final Judgment ensures that the United States will have the ability to investigate the competitive impact if Foster attempts to resume its sale of friction management products in the United States.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in Federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its

[2] The Hold Separate requires that until the assets being divested are sold according to the terms of the proposed Final Judgment, Foster and Portec must continue to operate their entire businesses as independent, ongoing, and economically viable businesses that are held entirely separate, distinct, and apart. Foster and Portec shall not coordinate their production, marketing, or terms of sale until the assets being divested are sold. It is necessary to keep Portec's entire business separate from Foster's business in the event the divested assets are not sold to Koppers for any reason. If the assets are not sold to Koppers, Foster and Portec will be unable to combine their operations, thereby preserving Portec as an independent competitor in the bonded joint and poly joint markets.

[3] Friction management products are defined as wayside gauge-face lubrication systems, top-of-rail lubrication systems, and any other system or equipment used to lubricate rail.

consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**. Written comments should be submitted to: Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 450 Fifth Street, NW., Suite 8700, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions preventing Foster's acquisition of Portec. The United States is satisfied, however, that the divestiture of the assets described in the proposed Final Judgment will preserve competition for the development, manufacture, and sale of bonded joints and poly joints in the United States. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. 16(e)(1). In making that determination in accordance with the statute, the court is required to consider:

(A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) The impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A)–(B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to "broad discretion to settle with the defendant within the reaches of the public interest." *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (DC Cir. 1995); *see generally United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States* v. *InBev N.V./S.A.,* 2009–2 Trade Cas. (CCH) ¶76,736, 2009 U.S. Dist. LEXIS 84787, No. 08–1965 (JR), at *3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires "into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable.").

As the United States Court of Appeals for the District of Columbia has held, under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "*within the reaches of the public interest.*" More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[4] In determining whether a proposed settlement is in the public interest, the court "must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations." *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be "deferential to the government's predictions as to the effect of the proposed remedies"); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States's prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case); *United States* v. *Republic Serv., Inc.,* 2010–2 Trade Cas. (CCH) ¶ 77,097, 2010 U.S. Dist. LEXIS 70895, No. 08–2076 (RWR), at *10 (D.D.C. July 15, 2010) (finding that "[i]n light of the deferential review to which the government's proposed remedy is accorded, [amicus curiae's] argument that an alternative remedy may be comparably superior, even if true, is not a sufficient basis for finding that the proposed final judgment is not in the public interest.").

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). Therefore, the United States "need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms." *SBC Commc'ns,* 489 F. Supp. 2d at 17; *Republic Serv.,* 2010 U.S. Dist. LEXIS 70895, at *2–3 (entering final judgment "[b]ecause there is an adequate factual foundation upon which to conclude that the government's proposed divestitures will remedy the antitrust violations alleged in the complaint.").

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft,* 56 F.3d at 1459; *see also InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 ("the 'public interest' is not to be measured by comparing the violations

[4] *Cf. BNS,* 858 F.2d at 464 (holding that the court's "ultimate authority under the [APPA] is limited to approving or disapproving the consent decree"); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to "look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass"). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether "the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' ").

alleged in the complaint against those the court believes could have, or even should have, been alleged"). Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court confirmed in *SBC Communications,* courts "cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power." 489 F. Supp. 2d at 15.

In its 2004 amendments to the Tunney Act,[5] Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, stating: "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. 16(e)(2). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: "[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's "scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings." *SBC Commc'ns,* 489 F. Supp. 2d at 11.[6]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: December 14, 2010.

Respectfully submitted, Christine A. Hill (DC Bar No. 461048), U.S. Department of Justice, Antitrust Division, Litigation II Section, 450 Fifth Street, NW., Suite 8700, Washington, DC 20530. (202) 305–2738.

Certificate of Service

I, Christine A. Hill, hereby certify that on December 14, 2010, I caused a copy of the foregoing Competitive Impact Statement to be served upon Defendants L.B. Foster Company and Portec Rail Products, Inc. by mailing the documents electronically to the duly authorized legal representatives of Defendants as follows:

Counsel for L.B. Foster Company

John H. Korns, Esquire, Buchanan, Ingersoll & Rooney PC, 1700 K Street, NW., Suite 300, Washington, DC 20006. (202) 452–7939. *john.korns@bipc.com.*

Wendelynne J. Newton, Esquire, Buchanan, Ingersoll & Rooney PC, One Oxford Centre, 20th Floor, 301 Grant Street, Pittsburgh, PA 15219. (412) 562–8932. *wendelynne.newton@bipc.com.*

Counsel for Portec Rail Products, Inc.

Timothy M. Walsh, Esquire, Steptoe & Johnson, LLP, 1330 Connecticut Avenue, NW., Washington, DC 20036. (202) 429–3000. *twalsh@steptoe.com.*

Christine A. Hill, Esquire, United States Department of Justice, Antitrust Division, Litigation II Section, 450 Fifth Street, NW., Suite 8700, Washington, DC 20530. (202) 305–2738.

United States District Court for the District of Columbia

United States of America, Plaintiff

v.

L.B. Foster Company and *Portec Rail Products, Inc.,* Defendants. 10 2115.

Proposed Final Judgment

Whereas, Plaintiff United States of America ("United States") filed its Complaint on December 14, 2010, the United States and Defendants L.B. Foster Company and Portec Rail Products, Inc., by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

and whereas, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

and whereas, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by Defendants to assure that competition is not substantially lessened;

and whereas, the United States requires Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

and whereas, Defendants have represented to the United States that the divestitures required below can and will be made and that Defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is *ordered, adjudged, and decreed:*

I. Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. "Acquirer" means Koppers, the entity to which Defendants shall divest the Divestiture Assets.

B. "Foster" means Defendant L.B. Foster Company, a Pennsylvania corporation headquartered in Pittsburgh, Pennsylvania, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. "Portec" means Defendant Portec Rail Products, Inc., a West Virginia corporation headquartered in Pittsburgh, Pennsylvania, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. "Koppers" means Koppers Inc., a Pennsylvania corporation headquartered in Pittsburgh, Pennsylvania, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

E. "Divested Portec Product Lines" means Portec's bonded insulated rail joints (assemblies and kits), polyurethane-coated insulated rail joints, end posts, polyurethane-coated gauge and tie plates, fiberglass (CyPly) joint kits, plastic insulation, standard rail joints, compromise and transitional rail joints, and Weldmate joint bars, but excluding Coronet rail joints and end posts manufactured by Coronet Rail Limited.

F. "Divestiture Assets" means:

(1) Portec's facility located at 900 9th Avenue W, Huntington, West Virginia (the "Huntington Facility"), including all equipment located in and around the Huntington Facility that is used in connection with the Divested Portec Product Lines;

(2) All tangible assets that are used for any of the Divested Portec Product Lines, including research and development activities; all manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property and all assets used in connection with any of the Divested Portec Product Lines; all licenses, permits and authorizations issued by any governmental organization relating to any of the Divested Portec Product Lines; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings, relating to any of the Divested Portec Product Lines, including supply agreements; all customer lists,

[5] The 2004 amendments substituted the word "shall" for "may" when directing the courts to consider the enumerated factors and amended the list of factors to focus on competitive considerations and address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments "effected minimal changes" to Tunney Act review).

[6] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the "Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone"); *United States* v. *Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) ("Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances."); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) ("Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.").

contracts, accounts, and credit records; all repair and performance records and all other records relating to any of the Divested Portec Product Lines;

(3) All intangible assets used in the design, development, production, marketing, servicing, distribution,
and/or sale of any of the Divested Portec Product Lines, including, but not limited to, all patents, licenses and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, all marketing and sales data relating to any of the Divested Portec Product Lines, quality assurance and control procedures, design tools and simulation capability, all manuals and technical information Portec provides to its own employees, customers, suppliers, agents or licensees, and all research data concerning historic and current research and development efforts relating to any of the Divested Portec Product Lines, including, but not limited to, designs of experiments, and the results of successful and unsuccessful designs and experiments; and

(4) The Divestiture Assets exclude the trademark, trade name, service mark, or service name "Portec."

G. "Friction Management Products" means wayside gauge-face lubrication systems, top-of-rail lubrication systems, and any other system or equipment used to lubricate rail.

H. "Transaction" means Foster's acceptance for payment of at least 65 percent of the Fully Diluted Number of Company Shares of Portec, as defined in the Agreement and Plan of Merger dated February 16, 2010, between L.B. Foster Company, Foster Thomas Company, and Portec Rail Products, Inc.

III. Applicability

This Final Judgment applies to Foster and Portec, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV. Divestitures

A. Defendants are ordered and directed, within ten (10) calendar days after the Court signs the Hold Separate Stipulation and Order in this matter, to divest the Divestiture Assets to the Acquirer in a manner consistent with this Final Judgment.

B. Defendants will not interfere with any negotiations by the Acquirer to employ any current or former Portec employee who is responsible in any way for the design, development, production, marketing, servicing, distribution, and/or sale of any of the Divested Portec Product Lines. Interference with respect to this paragraph includes, but is not limited to, enforcement of non-compete clauses and offers to increase salary or other benefits apart from those offered company-wide. In addition, for each employee who elects employment by the Acquirer, Defendants shall vest all unvested pension and other equity rights of that employee and provide all benefits to which the employee would have been entitled if terminated without cause.

C. Defendants shall warrant to the Acquirer that each asset will be operational on the date of sale.

D. Defendants shall not take any action that will impede in any way the permitting, operation, use, or divestiture of the Divestiture Assets.

E. Defendants shall warrant to the Acquirer that there are no material defects in the environmental, zoning or other permits pertaining to the operation of each asset, and that following the sale of the Divestiture Assets, Defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

F. Defendants shall be permitted to occupy, under sublease to the Acquirer or other arrangement, for a period of sixty (60) days from the date the Transaction is closed, that portion of the Huntington Facility that is not currently being used to manufacture any of the Divested Portec Product Lines.

G. Defendants shall divest Portec's entire business relating to each of the Divested Portec Product Lines and will not manufacture any products using any intangible assets divested pursuant to paragraph II(F)(3) of this Final Judgment.

H. Defendants shall, as soon as possible, but within one business day after completion of the relevant event, notify the United States of: (1) The effective date of the Transaction; and (2) the effective date of the sale of the Divestiture Assets to the Acquirer.

I. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV of this Final Judgment shall include the entire Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer as part of a viable, ongoing business involved in the design, development, production, marketing, servicing, distribution, and sale of the Divested Portec Product Lines, that the Divestiture Assets will remain viable, and the divestiture of such assets will remedy the competitive harm alleged in the Complaint. The divestitures shall be:

(1) Made to an Acquirer that, in the United States's sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the design, development, production, marketing, servicing, distribution, and sale of the Divested Portec Product Lines; and

(2) Accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between the Acquirer and Defendants give Defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. Financing

Defendants shall not finance all or any part of any purchase made pursuant to Section IV of this Final Judgment.

VI. Hold Separate

Until the divestiture required by this Final Judgment have been accomplished, Defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestitures ordered by this Court.

VII. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice Antitrust Division, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

(1) Access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and

(2) To interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this Section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If, at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," then the United States shall give Defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

VIII. Notification

Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the "HSR Act"), during the term of this Final Judgment, Defendants, without providing advance notification to the Antitrust Division, shall not directly or indirectly: (a) Acquire any assets of or any interest (including, but not limited to, any financial, security, loan, equity, or management interest) in, any company in the business of designing, developing, producing, marketing, servicing, distributing, and/or selling bonded insulated rail joints and/or polyurethane-coated insulated rail joints, or any company in the business of producing, marketing, distributing, and/or selling Friction Management Products; or (b) enter into any relationship with another company that involves the distribution of Friction Management Products in North America.

Such notification shall be provided to the Antitrust Division in the same format as, and per the instructions relating to the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, except that the information requested in Items 5 through 9 of the instructions must be provided only about bonded insulated rail joints, polyurethane-coated insulated rail joints, and Friction Management Products. Notification shall be provided at least thirty (30) calendar days prior to acquiring any such interest, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans discussing the proposed transaction. If within the 30-day period after notification, representatives of the Antitrust Division make a written request for additional information, Defendants shall not consummate the proposed transaction or agreement until thirty (30) calendar days after submitting all such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder. This Section shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under this Section shall be resolved in favor of filing notice.

IX. No Reacquisition

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

X. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XI. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry.

XII. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States's responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 United States District Judge.

[FR Doc. 2010–31863 Filed 12–17–10; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA #343E]

Controlled Substances: Established Initial Aggregate Production Quotas for 2011

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of aggregate production quotas for 2011.

SUMMARY: This notice establishes initial 2011 aggregate production quotas for controlled substances in schedules I and II of the Controlled Substances Act (CSA).

DATES: *Effective Date:* December 20, 2010.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, PhD, Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration, Springfield, Virginia 22152, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 306 of the CSA (21 U.S.C. 826) requires that the Attorney General establish aggregate production quotas for each basic class of controlled substance listed in schedules I and II. This responsibility has been delegated to the Administrator of the DEA by 28 CFR 0.100. The Administrator, in turn, has redelegated this function to the Deputy Administrator, pursuant to 28 CFR 0.104.

The 2011 aggregate production quotas represent those quantities of controlled substances that may be produced in the United States in 2011 to provide adequate supplies of each substance for: the estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks (21 U.S.C. 826(a) and 21 CFR 1303.11). These quotas do not include imports of controlled substances for use in industrial processes.

On September 15, 2010, a notice of the proposed initial 2011 aggregate production quotas for certain controlled substances in schedules I and II was published in the **Federal Register** (75 FR 56137). All interested persons were invited to comment on or object to these proposed aggregate production quotas on or before October 15, 2010.

Seven responses (six from DEA registered manufacturers, and one from a non-DEA registrant) were received within the published comment period, offering comments on a total of 31 schedules I and II controlled substances. The commenters stated that the proposed aggregate production quotas for 3,4-methylenedioxyamphetamine, 3,4-methylenedioxy-N-ethylamphetamine, 3,4-methylenedioxymethamphetamine, 4-anilino-N-phenethyl-4-piperidine, amphetamine (for sale), cathinone, codeine (for sale), dihydromorphine, fentanyl, gamma hydroxybutyric acid, heroin, hydrocodone, hydromorphone, marihuana, meperidine, methaqualone, methylphenidate, morphine (for conversion), morphine (for sale), nabilone, noroxymorphone (for conversion), opium (tincture), oxycodone (for sale), pentobarbital, phencyclidine, remifentanil, secobarbital, tapentadol, tetrahydrocannabinols, thebaine and tilidine were insufficient to provide for the estimated medical, scientific, research, and industrial needs of the United States, for export requirements and for the establishment and maintenance of reserve stocks.

In arriving at the aggregate production quotas, DEA has taken into consideration the above comments along with the factors set forth at 21 CFR 1303.11(b) and other relevant 2010 factors, including 2010 manufacturing quotas, current 2010 sales and inventories, 2011 export requirements, additional applications received, as well as research and product development requirements. Based on this information, DEA has adjusted the initial aggregate production quotas for 3,4-methylenedioxyamphetamine, 3,4-methylenedioxy-N-ethylamphetamine, 3,4-methylenedioxymethamphetamine, amobarbital, cathinone, dimethyltryptamine, ibogaine, lysergic

acid diethylamide, metazocine, methaqualone, nabilone, normorphine, noroxymorphone (for sale), phenazocine, phencyclidine, secobarbital, and tetrahydrocannabinols to meet the legitimate needs of the United States.

Regarding 4-anilino-N-phenethyl-4-piperidine, amphetamine (for sale), codeine (for sale), dihydromorphine, fentanyl, gamma hydroxybutyric acid, heroin, hydrocodone, hydromorphone, marihuana, meperidine, methylphenidate, morphine (for conversion), morphine (for sale), noroxymorphone (for conversion), opium (tincture), oxycodone (for sale), pentobarbital, remifentanil, tapentadol, thebaine and tilidine DEA has determined that the proposed initial 2011 aggregate production quotas are sufficient to meet the current 2011 estimated medical, scientific, research, and industrial needs of the United States.

Pursuant to 21 CFR 1303, the Deputy Administrator of DEA will, in 2011, adjust aggregate production quotas and individual manufacturing quotas allocated for the year based upon 2010 year-end inventory and actual 2010 disposition data supplied by quota recipients for each basic class of schedule I or II controlled substance.

Therefore, under the authority vested in the Attorney General by Section 306 of the CSA (21 U.S.C. 826), and delegated to the Administrator of DEA by 28 CFR 0.100, and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby orders that the 2011 initial aggregate production quotas for the following controlled substances, expressed in grams of anhydrous acid or base, be established as follows:

Basic class—Schedule I	Established 2011 quotas
1-Methyl-4-phenyl-4-propionoxypiperidine	2 g
2,5-Dimethoxyamphetamine	2 g
2,5-Dimethoxy-4-ethylamphetamine (DOET)	2 g
2,5-Dimethoxy-4-n-propylthiophenethylamine	2 g
3-Methylfentanyl	2 g
3-Methylthiofentanyl	2 g
3,4-Methylenedioxyamphetamine (MDA)	22 g
3,4-Methylenedioxy-N-ethylamphetamine (MDEA)	15 g
3,4-Methylenedioxymethamphetamine (MDMA)	22 g
3,4,5-Trimethoxyamphetamine	2 g
4-Bromo-2,5-dimethoxyamphetamine (DOB)	2 g
4-Bromo-2,5-dimethoxyphenethylamine (2-CB)	2 g
4-Methoxyamphetamine	77 g
4-Methylaminorex	2 g
4-Methyl-2,5-dimethoxyamphetamine (DOM)	2 g
5-Methoxy-3,4-methylenedioxyamphetamine	2 g
5-Methoxy-N,N-diisopropyltryptamine	2 g
Acetyl-alpha-methylfentanyl	2 g
Acetyldihydrocodeine	2 g
Acetylmethadol	2 g
Allylprodine	2 g
Alphacetylmethadol	2 g
Alpha-ethyltryptamine	2 g
Alphameprodine	2 g
Alphamethadol	2 g
Alpha-methylfentanyl	2 g
Alpha-methylthiofentanyl	2 g
Alpha-methyltryptamine (AMT)	2 g
Aminorex	2 g
Benzylmorphine	2 g
Betacetylmethadol	2 g
Beta-hydroxy-3-methylfentanyl	2 g
Beta-hydroxyfentanyl	2 g
Betameprodine	2 g
Betamethadol	2 g
Betaprodine	2 g
Bufotenine	3 g
Cathinone	4 g
Codeine-N-oxide	602 g
Diethyltryptamine	2 g
Difenoxin	3,000 g
Dihydromorphine	3,608,000 g
Dimethyltryptamine	7 g
Gamma-hydroxybutyric acid	3,000,000 g
Heroin	20 g
Hydromorphinol	2 g
Hydroxypethidine	2 g
Ibogaine	5 g
Lysergic acid diethylamide (LSD)	16 g
Marihuana	21,000 g
Mescaline	5 g
Methaqualone	10 g
Methcathinone	4 g
Methyldihydromorphine	2 g
Morphine-N-oxide	605 g

Basic class—Schedule I	Established 2011 quotas
N-Benzylpiperazine	2 g
N,N-Dimethylamphetamine	2 g
N-Ethylamphetamine	2 g
N-Hydroxy-3,4-methylenedioxyamphetamine	2 g
Noracymethadol	2 g
Norlevorphanol	52 g
Normethadone	2 g
Normorphine	18 g
Para-fluorofentanyl	2 g
Phenomorphan	2 g
Pholcodine	2 g
Psilocybin	2 g
Psilocyn	2 g
Tetrahydrocannabinols	393,000 g
Thiofentanyl	2 g
Tilidine	10 g
Trimeperidine	2 g

Basic class—Schedule II	Established 2011 quotas
1-Phenylcyclohexylamine	2 g
1-piperdinocyclohexanecarbonitrile	2 g
4-Anilino-N-phenethyl-4-piperidine (ANPP)	2,500,000 g
Alfentanil	8,000 g
Alphaprodine	2 g
Amobarbital	40,007 g
Amphetamine (for conversion)	7,500,000 g
Amphetamine (for sale)	18,600,000 g
Cocaine	247,000 g
Codeine (for conversion)	65,000,000 g
Codeine (for sale)	39,605,000 g
Dextropropoxyphene	92,000,000 g
Dihydrocodeine	800,000 g
Diphenoxylate	827,000 g
Ecgonine	83,000 g
Ethylmorphine	2 g
Fentanyl	1,428,000 g
Glutethimide	2 g
Hydrocodone (for sale)	55,000,000 g
Hydromorphone	3,455,000 g
Isomethadone	11 g
Levo-alphacetylmethadol (LAAM)	3 g
Levomethorphan	5 g
Levorphanol	10,000 g
Lisdexamfetamine	9,000,000 g
Meperidine	6,600,000 g
Meperidine Intermediate-A	3 g
Meperidine Intermediate-B	7 g
Meperidine Intermediate-C	3 g
Metazocine	5 g
Methadone (for sale)	20,000,000 g
Methadone Intermediate	26,000,000 g
Methamphetamine	3,130,000 g
[750,000 grams of levo-desoxyephedrine for use in a non-controlled, non-prescription product; 2,331,000 grams for methamphetamine mostly for conversion to a schedule III product; and 49,000 grams for methamphetamine (for sale)]	
Methylphenidate	50,000,000 g
Morphine (for conversion)	83,000,000 g
Morphine (for sale)	39,000,000 g
Nabilone	10,502 g
Noroxymorphone (for conversion)	9,000,000 g
Noroxymorphone (for sale)	401,000 g
Opium (powder)	230,000 g
Opium (tincture)	1,500,000 g
Oripavine	15,000,000 g
Oxycodone (for conversion)	5,600,000 g
Oxycodone (for sale)	105,500,000 g
Oxymorphone (for conversion)	12,800,000 g
Oxymorphone (for sale)	3,070,000 g
Pentobarbital	28,000,000 g
Phenazocine	5 g

Basic class—Schedule II	Established 2011 quotas
Phencyclidine	24 g
Phenmetrazine	2 g
Phenylacetone	8,000,000 g
Racemethorphan	2 g
Remifentanil	2,500 g
Secobarbital	260,002 g
Sufentanil	7,000 g
Tapentadol	1,000,000 g
Thebaine	126,000,000 g

The Deputy Administrator further orders that aggregate production quotas for all other schedules I and II controlled substances included in 21 CFR 1308.11 and 1308.12 be established at zero.

The Office of Management and Budget has determined that notices of aggregate production quotas are not subject to centralized review under Executive Order 12866.

This action does not preempt or modify any provision of State law; nor does it impose enforcement responsibilities on any State; nor does it diminish the power of any State to enforce its own laws. Accordingly, this action does not have federalism implications warranting the application of Executive Order 13132.

The Deputy Administrator hereby certifies that this action will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The establishment of aggregate production quotas for schedules I and II controlled substances is mandated by law and by international treaty obligations. The quotas are necessary to provide for the estimated medical, scientific, research, and industrial needs of the United States, for export requirements and the establishment and maintenance of reserve stocks. While aggregate production quotas are of primary importance to large manufacturers, their impact upon small entities is neither negative nor beneficial. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

This action meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

This action will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $126,400,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

This action is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This action will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Dated: December 10, 2010.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 2010–31849 Filed 12–17–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–350E]

Established Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2011

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of Assessment of Annual Needs for 2011.

SUMMARY: This notice establishes the initial 2011 Assessment of Annual Needs for certain List I chemicals in accordance with the Combat Methamphetamine Epidemic Act of 2005 (CMEA).

DATES: *Effective Date:* December 20, 2010.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, PhD, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 713 of the Combat Methamphetamine Epidemic Act of 2005 (Title VII of Pub. L. 109–177) (CMEA) amended Section 306 of the Controlled Substances Act (CSA) (21 U.S.C. 826) by adding ephedrine, pseudoephedrine, and phenylpropanolamine to existing language to read as follows: "The Attorney General shall determine the total quantity and establish production quotas for each basic class of controlled substance in schedules I and II and for ephedrine, pseudoephedrine, and phenylpropanolamine to be manufactured each calendar year to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks." Further, section 715 of the CMEA amended 21 U.S.C. 952 "Importation of Controlled Substances" by adding the same List I chemicals to the existing language in paragraph (a), and by adding a new paragraph (d) to read as follows:

(a) Controlled substances in schedule I or II and narcotic drugs in schedule III, IV, or V; exceptions

It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any controlled substance in schedule I or II of subchapter I of this chapter, or any narcotic drug in schedule III, IV, or V of subchapter I of this chapter, or ephedrine, pseudoephedrine, and phenylpropanolamine, except that—

(1) such amounts of crude opium, poppy straw, concentrate of poppy straw, and coca leaves, and of ephedrine, pseudoephedrine, and phenylpropanolamine, as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes * * * may be so imported under such regulations as the Attorney General shall prescribe.

* * * * *

(d)(1) With respect to a registrant under section 958 who is authorized under subsection (a)(1) to import ephedrine, pseudoephedrine, or phenylpropanolamine, at any time during the year the registrant may apply for an increase in the amount of such chemical that the registrant is authorized to import, and the Attorney General may

approve the application if the Attorney General determines that the approval is necessary to provide for medical, scientific, or other legitimate purposes regarding the chemical.

Editor's Note: This excerpt of the amendment is published for the convenience of the reader. The official text is published at 21 U.S.C. 952(a) and (d)(1).

Background and Legal Authority

Section 713 of the CMEA of 2005 (Title VII of Pub. L. 109–177) amended section 306 of the CSA (21 U.S.C. 826) to require that the Attorney General establish quotas to provide for the annual needs for ephedrine, pseudoephedrine, and phenylpropanolamine. Section 715 of the CMEA amended 21 U.S.C. 952 by adding ephedrine, pseudoephedrine, and phenylpropanolamine to the existing language concerning importation of controlled substances.

The 2011 Assessment of Annual Needs represents those quantities of ephedrine, pseudoephedrine, and phenylpropanolamine which may be manufactured domestically and/or imported into the United States in 2011 to provide adequate supplies of each chemical for: the estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks.

The responsibility for establishing the assessment has been delegated to the Administrator of the DEA by 28 CFR 0.100. The Administrator, in turn, has redelegated this function to the Deputy Administrator, pursuant to 28 CFR 0.104.

On September 13, 2010, a notice entitled, "Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2011: Proposed" was published in the **Federal Register** (75 FR 55605). That notice proposed the 2011 Assessment of Annual Needs for ephedrine (for sale), ephedrine (for conversion), pseudoephedrine (for sale), phenylpropanolamine (for sale) and phenylpropanolamine (for conversion). All interested persons were invited to comment on or object to the assessments on or before October 13, 2010.

Comments Received

DEA received one comment regarding the assessment for annual needs for phenylpropanolamine (for conversion). DEA discusses this comment in further detail below. DEA did not receive any comments to the Assessment of Annual Needs for ephedrine (for sale), ephedrine (for conversion), pseudoephedrine (for sale), and phenylpropanolamine (for sale). DEA is finalizing the assessments for these List I chemicals based on information contained in applications for 2011 import, manufacturing and procurement quotas provided by DEA registered importers and manufacturers as of October 21, 2010. DEA is providing the data used in developing the established assessments for each of the listed chemicals. DEA also notes that the Assessment of Annual Needs may be adjusted at a later date pursuant to 21 CFR 1315.13.

Comment Regarding DEA's Assessment for Phenylpropanolamine (For Conversion)

DEA received one comment regarding the assessment of annual need for phenylpropanolamine (for conversion). The comment was from a DEA registered manufacturer of phenylpropanolamine (for conversion) who converts phenylpropanolamine to amphetamine. The commenter stated that, "the proposed quantities for the material mentioned below is not sufficient to provide for adequate supplies for the medical, scientific, research and industrial needs of the United States, and for the lawful export requirements, and that the quotas should be increased to cover our needs * * *." Additionally, the commenter further stated, "the Phenylpropanolamine quota should be increased by 8,500,000 grams as base to allow for increased quantity of material to be purchased from our importer of record * * *."

DEA Response

As a preliminary matter, this **Federal Register** notice establishes the assessment of annual needs for List I chemicals and the methodology used by the DEA to set that number. The assessment of annual needs is different than individual quotas and this rulemaking does not address the regulatory process for evaluating individual import, manufacturing and procurement quotas issued to DEA registered manufacturers and importers.

In calculating the assessment for phenylpropanolamine (for conversion) DEA considered the commenter's phenylpropanolamine requirements, as submitted in the commenter's request for quota, along with the requirements of other manufacturers of phenylpropanolamine as stated in requests for 2011 quotas for the manufacture of phenylpropanolamine (for conversion) received as of October 21, 2010. The commenter suggested that the phenylpropanolamine assessment be increased by 8,500 kg. DEA notes that based on the sales information provided in pending 2011 requests for individual manufacturing quotas, the DEA is establishing the phenylpropanolamine (for conversion) at 21,800 kg, which represents an increase of 13,700 kg from the original 8,100 kg proposed phenylpropanolamine assessment (75 FR 55609). The full calculation is provided below.

Underlying Data and DEA's Analysis

DEA is establishing the assessment of annual needs based on information provided by DEA registered manufacturers and importers as of October 21, 2010. A summary of the underlying data from quota applications and other sources, as well as DEA's analysis of that data, are provided below.

In determining the proposed 2011 assessments, DEA has considered the total net disposals (*i.e.* sales) of the List I chemicals for the current and preceding two years, actual and estimated inventories, projected demand (2011), industrial use, and export requirements from data provided by DEA registered manufacturers and importers in procurement quota applications (DEA 250), from manufacturing quota applications (DEA 189), and from import quota applications (DEA 488).[1]

DEA further considered trends as derived from information provided in applications for import, manufacturing, and procurement quotas and in import and in export declarations. DEA notes that the inventory, acquisitions (purchases) and disposition (sales) data provided by DEA registered manufacturers and importers reflects the most current information available.

Ephedrine (for Sale) Data

[1] Applications and instructions for procurement, import and manufacturing quotas can be found at *http://www.deadiversion.usdoj.gov/quotas/quota_apps.htm.*

EPHEDRINE (FOR SALE) DATA FOR 2011 ASSESSMENT OF ANNUAL NEEDS (KILOGRAMS)

Ephedrine	2008	2009	2010	2011 Request
Sales* (DEA 250)	2,640	2,302	3,014	3,685
Imports** (DEA 488)	1,692	4,208	3,202	3,302
Export Declarations (DEA 486)	18	64	52	n/a
Inventory* (DEA 250)	603	432	457	n/a
IMS*** (NSP)	1,460	1,406	n/a	n/a

* Reported sales and inventory from applications for 2011 procurement quotas (DEA 250) received as of October 21, 2010.
** Reported imports from applications for 2011 import quotas (DEA 488) received as of October 21, 2010.
*** IMS Health, IMS National Sales Perspectives™, January 2008 to December 2009, Retail and Non-Retail Channels, Data Extracted October 21, 2010.

Ephedrine (for Sale) Analysis

DEA calculated the proposed 2011 Assessment of Annual Needs for ephedrine using the calculation developed to determine the 2009 Assessment of Annual Needs. This calculation considers the criteria defined in 21 U.S.C. 826: Estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks.

As of October 21, 2010, DEA registered manufacturers of dosage form products containing ephedrine requested the authority to purchase a total of 3,685 kg ephedrine (for sale) in 2011. DEA registered manufacturers of ephedrine reported sales totaling approximately 2,302 kg in 2009 and 3,014 kg in 2010; this represents a 24 percent increase in sales reported by these firms from 2009 to 2010. Additionally, exports of ephedrine products from the United States as reported on export declarations (DEA 486) totaled 64 kg in 2009 and 52 kg in 2010; this represents a 19 percent decrease from levels observed in 2009. The average of the 2009 and 2010 exports of ephedrine products is approximately 58 kg. DEA also considered information on trends in the national rate of net disposals from sales data provided by IMS Health's NSP database. IMS NSP data reported the average sales volume of ephedrine for the calendar years 2008 and 2009 to be approximately 1,433 kg. DEA notes that the 2010 sales figure reported by manufacturers (3,014 kg) is higher than the average sales reported by IMS for the previous two years (1,433 kg). This is expected because a manufacturer's reported sales include quantities which are necessary to provide reserve stocks for distributors and retailers. In considering the manufacturer's reported sales, DEA thus believes that 3,014 kg fairly represents the U.S. sales of ephedrine for 2011 and that 58 kg fairly represents the export requirements of ephedrine. For the establishment and maintenance of reserve stocks, DEA notes that 21 CFR § 1315.24 allows for an inventory allowance (reserve stock) of 50 percent of a manufacturer's estimated sales. DEA also considered the estimated 2010 year end inventory as reported by DEA registrants in determining the inventory allowance.

DEA calculated the ephedrine (for sale) assessment by the following methodology:

2010 sales + reserve stock + export requirement − existing inventory = AAN

3,014 + (50%* 3,014) + 58 - 457 = 4,122 kg ephedrine (for sale) for 2011

This calculation suggests that DEA's Assessment of Annual Needs for ephedrine should be established as 4,200 kg. Accordingly, DEA is establishing the 2011 Assessment of Annual Needs for ephedrine (for sale) at 4,200 kg.

Phenylpropanolamine (for Sale) Data

PHENYLPROPANOLAMINE (FOR SALE) DATA FOR 2011 ASSESSMENT OF ANNUAL NEEDS (KILOGRAMS)

Phenylpropanolamine (for sale)	2008	2009	2010	2011 Request
Sales* (DEA 250)	4,300	4,825	5,005	6,110
Imports** (DEA 488)	105	1,503	1,582	1,596
Export Declarations (DEA 486)	0	3	0	n/a
Inventory* (DEA 250)	2,455	2,483	2,261	n/a

* Reported sales and inventory from applications for 2011 procurement quotas (DEA 250) received as of October 21, 2010.
** Reported imports from applications for 2011 import quotas (DEA 488) received as of October 21, 2010.

Phenylpropanolamine (for Sale) Analysis

DEA utilized the same general methodology and calculation to establish the assessment for phenylpropanolamine (for sale) as was described for the assessment of ephedrine (for sale), above.

As of October 21, 2010, DEA registered manufacturers of dosage form products containing phenylpropanolamine requested the authority to purchase 6,110 kg phenylpropanolamine (for sale) in 2011. DEA registered manufacturers of phenylpropanolamine reported sales totaling approximately 4,825 kg in 2009 and 5,005 kg in 2010; this represents a 3.6 percent increase in sales reported by these firms from 2009 to 2010. Additionally, exports of phenylpropanolamine products from the U.S. as reported on export declarations (DEA 486) totaled 3 kg in 2009 and 0 kg in 2010; this represents a 3 kg decrease from levels observed in 2009. The average of the 2009 and 2010 exports of phenylpropanolamine products is approximately 2 kg. DEA thus believes that 5,005 kg fairly represents the U.S. sales of phenylpropanolamine for 2011 and that 2 kg fairly represents the export requirements of phenylpropanolamine. DEA notes that phenylpropanolamine is sold primarily as a veterinary product for the treatment for canine incontinence and is not approved for human consumption. IMS Health's NSP

Data does not capture sales of phenylpropanolamine to these channels and is therefore not included.

DEA calculated the phenylpropanolamine (for sale) assessment by the following methodology:

2010 sales + reserve stock + export requirement − existing inventory = AAN

5,005 + (50% * 5,005) + 2 - 2,261 = 5,249 kg phenylpropanolamine (for sale) for 2011

This calculation suggests that DEA's 2011 Assessment of Annual Needs for phenylpropanolamine (for sale) should be established as 5,300 kg. Accordingly, DEA is establishing the 2011 Assessment of Annual Needs for phenylpropanolamine (for sale) at 5,300 kg.

Pseudoephedrine (for Sale) Data

PSEUDOEPHEDRINE (FOR SALE) DATA FOR 2011 ASSESSMENT OF ANNUAL NEEDS (KILOGRAMS)

Pseudoephedrine (for sale)	2008	2009	2010	2011 Request
Sales* (DEA 250)	200,235	193,092	203,734	218,037.
Sales* (DEA 189)	64,781	7,321	5,550	0.
Imports** (DEA 488)	138,602	164,906	168,618	220,926.
Export Declarations (DEA 486)	47,199	35,264	8,480	n/a.
Inventory* (DEA 250)	109,427	76,505	48,004	n/a.
IMS*** (NSP)	148,456	139,908	n/a	n/a.

* Reported sales and inventory from applications for 2011 procurement quotas (DEA 250) received as of October 21, 2010.
** Reported imports from applications for 2011 import quotas (DEA 488) received as of October 21, 2010.
*** IMS Health, IMS National Sales Perspectives™, January 2008 to December 2009, Retail and Non-Retail Channels, Data Extracted October 21, 2010.

Pseudoephedrine (for Sale) Analysis

DEA utilized the same general methodology and calculations to establish the assessment for pseudoephedrine (for sale) as were described for the assessment of ephedrine (for sale), above.

As of October 21, 2010, DEA registered manufacturers of dosage form products containing pseudoephedrine requested the authority to purchase 218,037 kg pseudoephedrine. DEA registered manufacturers of pseudoephedrine reported sales totaling approximately 193,092 kg in 2009 and 203,734 kg in 2010; this represents a 5 percent increase in sales reported by these firms from 2009 to 2010. During the same period exports of pseudoephedrine products from the U.S. as reported on export declarations (DEA 486) totaled 35,264 kg in 2009 and 8,480 kg in 2010; this represents a 76 percent decrease from levels observed in 2009. The average of the 2009 and 2010 exports is 21,872 kg.

Additionally, DEA considered information on trends in the national rate of net disposals from sales data provided by IMS Health. IMS NSP data reported the average retail sales volume of pseudoephedrine for the calendar years 2008 and 2009 to be approximately 144,182 kg. DEA thus believes that 203,734 kg of sales reported by manufacturers fairly represents the U.S. sales of pseudoephedrine for 2011 and that 21,872 kg fairly represents the export requirements for pseudoephedrine.

DEA calculated the pseudoephedrine (for sale) assessment by the following methodology:

2010 sales + reserve stock + export requirement − existing inventory = AAN

203,734 + (50% * 203,734) + 21,872 − 48,004 = 279,469 kg pseudoephedrine (for sale) for 2011.

This calculation suggests that DEA's 2011 Assessment of Annual Needs for pseudoephedrine (for sale) should be established as 280,000 kg. Accordingly, DEA is establishing the 2011 Assessment of Annual Needs for pseudoephedrine (for sale) at 280,000 kg.

Phenylpropanolamine (for Conversion) Data

PHENYLPROPANOLAMINE (FOR CONVERSION) DATA FOR 2011 ASSESSMENT OF ANNUAL NEEDS (KILOGRAMS)

Phenylpropanolamine (for conversion)	2008	2009	2010	2011 Request
Sales* (DEA 250)	10,834	11,486	17,086	23,700
Imports** (DEA 488)	8,294	5,766	15,177	27,500
Export Declarations (DEA 486)	0	0	0	n/a
Inventory* (DEA 250)	5,533	3,145	3,854	n/a

* Reported sales and inventory from applications for 2011 procurement quotas (DEA 250) received as of received as of October 21, 2010.
** Reported imports from applications for 2011 import quotas (DEA 488) received as of October 21, 2010.

Phenylpropanolamine (for Conversion) Analysis

As of October 21, 2010, DEA registered manufacturers of phenylpropanolamine (for conversion) requested the authority to purchase a total of 23,700 kg phenylpropanolamine for the manufacture of amphetamine. DEA registered manufacturers of phenylpropanolamine reported sales of phenylpropanolamine totaling approximately 11,486 kg in 2009 and 17,086 kg in 2010; this represents a 33 percent increase in sales reported by these firms from 2009 to 2010. There were no reported exports of phenylpropanolamine (for conversion). DEA has not received any requests to synthesize phenylpropanolamine in 2011. DEA has concluded that the 2010 sales of phenylpropanolamine (for conversion), 17,086 kg, fairly represents U.S. requirements for 2011 and zero kg fairly represents the export requirements of phenylpropanolamine (for conversion).

DEA determined that the data provided in procurement, manufacturing, and import quota applications best represents the legitimate need for phenylpropanolamine (for conversion).

Phenylpropanolamine (for conversion) is used for the manufacture of legitimate amphetamine products, but DEA notes that most legitimate amphetamine is manufactured by converting phenylacetone, rather than phenylpropanolamine, to amphetamine. Basing the phenylpropanolamine (for conversion) calculation on the total Aggregate Production Quota (APQ) for amphetamine therefore would inaccurately inflate the phenylpropanolamine (for conversion) assessment.

DEA calculated the phenylpropanolamine (for conversion) assessment for the manufacture of amphetamine as follows:

(2010 sales) + reserve stock + export requirement − inventory = AAN

(17,086) + (50%*17,086) + 0 − 3,854 = 21,775 kg PPA (for conversion) for 2011

This calculation suggests that DEA's 2011 Assessment of Annual Needs for phenylpropanolamine (for conversion) should be established as 21,800 kg. Accordingly, DEA is establishing the 2011 Assessment of Annual Needs for phenylpropanolamine (for conversion) at 21,800 kg.

Ephedrine (for Conversion) Data

EPHEDRINE (FOR CONVERSION) DATA FOR 2011 ASSESSMENT OF ANNUAL NEEDS (KILOGRAMS)

Ephedrine (for conversion)	2008	2009	2010	2011 Request
Sales* (DEA 250)	64,665	9,562	6,303	653
Imports** (DEA 488)	0	0	0	0
Inventory* (DEA 250)	233	99	152	n/a
APQ Methamphetamine***	3,130	3,130	3,130	n/a

* Reported sales and inventory from applications for 2011 procurement quotas (DEA 250) and manufacturing quotas (DEA 189) received as of received as of October 21, 2010.
** Reported imports from applications for 2011 import quotas (DEA 488) received as of received as of October 21, 2010.
*** Methamphetamine Aggregate Production Quota History *http://www.deadiversion.usdoj.gov/quotas/quota_history.pdf.*

Ephedrine (for Conversion) Analysis

As of October 21, 2010, DEA registered manufacturers of ephedrine (for conversion) requested the authority to purchase a total of 653 kg ephedrine (for conversion) for the manufacture of two substances: methamphetamine and pseudoephedrine.

DEA considered the ephedrine (for conversion) requirements for the manufacture of methamphetamine and pseudoephedrine. DEA has determined that the established assessments for the manufacture of these two substances are the best indicators of the need for ephedrine (for conversion). The assessment of need for methamphetamine was determined by DEA as the Aggregate Production Quota (APQ) for methamphetamine. DEA determined that the estimated sales of pseudoephedrine, as referenced in the Assessment of Annual Needs (AAN) for pseudoephedrine, represents the need for pseudoephedrine. Reported sales of ephedrine (for conversion) are included as reference to DEA's methodology.

DEA further considered the reported conversion yields of these substances. DEA registered manufacturers reported a conversion yield of 39 percent for the synthesis of methamphetamine from ephedrine. DEA cannot disclose the conversion yield for the synthesis of pseudoephedrine because this information is proprietary to the one manufacturer involved in this type of manufacturing.

DEA calculated the ephedrine (for conversion) assessment by the following methodology:

methamphetamine requirement + pseudoephedrine requirement = AAN

DEA calculated the ephedrine (for conversion) requirement for the manufacture of methamphetamine as follows:

(2010 APQ methamphetamine/39 percent yield) + reserve stock − inventory = ephedrine (for manufacture of methamphetamine)

(3,130/39 percent yield) + 50 percent*(3,130/39 percent yield) − 152 = 11,887 kg

The calculation for the ephedrine (for conversion) requirement for the manufacture of pseudoephedrine leads to a result of 6,692 kg. DEA cannot provide the details of the calculation because this would reveal the conversion yield for the synthesis of pseudoephedrine, which is proprietary to the one manufacturer involved in this type of manufacturing. Therefore, the assessment for ephedrine was determined by the sum total of the ephedrine (for conversion) requirements as described by the following methodology:

methamphetamine requirement + pseudoephedrine requirement = AAN

11,887 + 6,692 = 18,579 kg ephedrine (for conversion) for 2011

This calculation suggests that DEA's 2011 Assessment of Annual Needs for ephedrine (for conversion) should be established as 18,600 kg. Accordingly, DEA is establishing the 2011 Assessment of Annual Needs for ephedrine (for conversion) at 18,600 kg.

Conclusion

DEA received one comment regarding the assessment for phenylpropanolamine (for conversion). DEA has carefully considered the comment received in connection with the 2011 Assessment of Annual Needs. DEA calculated the assessment for phenylpropanolamine (for conversion) using the data provided in applications for 2011 import, manufacturing and procurement quotas provided by DEA registered importers and manufacturers as of October 21, 2010. This data included the quota request submitted by the commenter. The results of the calculation led DEA to increase the phenylpropanolamine (for conversion) assessment from the proposed 8,100 kg to 21,800 kg.

DEA did not receive any comments on its Assessment of Annual Needs for ephedrine (for sale), ephedrine (for conversion), pseudoephedrine (for sale) and phenylpropanolamine (for sale). DEA is finalizing the assessments for these List I chemicals based on information contained in applications for 2011 import, manufacturing and procurement quotas provided by DEA registered importers and manufacturers as of October 21, 2010.

Therefore, under the authority vested in the Attorney General by Section 306 of the CSA (21 U.S.C. 826), and delegated to the Administrator of the DEA by 28 CFR 0.100, and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby orders that the 2011 Assessment of Annual Needs for ephedrine,

pseudoephedrine, and phenylpropanolamine, expressed in kilograms of anhydrous acid or base, be established as follows:

List I chemical	Established 2011 assessment of annual needs (kg)
Ephedrine (for sale)	4,200
Phenylpropanolamine (for sale)	5,300
Pseudoephedrine (for sale) ..	280,000
Phenylpropanolamine (for conversion)	21,800
Ephedrine (for conversion) ...	18,600

The Office of Management and Budget has determined that notices of quotas are not subject to centralized review under Executive Order 12866.

This action does not preempt or modify any provision of State law; nor does it impose enforcement responsibilities on any State; nor does it diminish the power of any State to enforce its own laws. Accordingly, this action does not have any federalism implications warranting the application of Executive Order 13132.

The Deputy Administrator hereby certifies that this action will not have a significant economic impact upon a substantial number of small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601–612. The establishment of Assessment of Annual Needs for ephedrine, pseudoephedrine, and phenylpropanolamine is mandated by law. The assessments are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States; for lawful export requirements; and the establishment and maintenance of reserve stocks. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

This action meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

This action will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $120,000,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

This action is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). This action will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Dated: December 10, 2010.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 2010–31853 Filed 12–17–10; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–326F]

Final Revised Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2010

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of Final Assessment of Annual Needs for 2010.

SUMMARY: This notice establishes the Final Revised 2010 Assessment of Annual Needs for certain List I chemicals in accordance with the Combat Methamphetamine Epidemic Act of 2005 (CMEA), enacted on March 9, 2006.

DATES: *Effective Date:* December 20, 2010.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, PhD, Chief, Drug & Chemical Evaluation Section, Drug Enforcement Administration (DEA), Springfield, Virginia 22152, Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION: Section 713 of the Combat Methamphetamine Epidemic Act of 2005 (Title VII of Pub. L. 109–177) (CMEA) amended Section 306 of the Controlled Substances Act (CSA) (21 U.S.C. 826) by adding ephedrine, pseudoephedrine, and phenylpropanolamine to existing language to read as follows: "The Attorney General shall determine the total quantity and establish production quotas for each basic class of controlled substance in schedules I and II and for ephedrine, pseudoephedrine, and phenylpropanolamine to be manufactured each calendar year to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks." Further, 715 of CMEA amended 21 U.S.C. 952 "Importation of controlled substances" by adding the same List I chemicals to the existing language in paragraph (a), and by adding a new paragraph (d) to read as follows:

(a) Controlled substances in schedule I or II and narcotic drugs in schedule III, IV, or V; exceptions

It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any controlled substance in schedule I or II of subchapter I of this chapter, or any narcotic drug in schedule III, IV, or V of subchapter I of this chapter, or ephedrine, pseudoephedrine, and phenylpropanolamine, except that—

(1) such amounts of crude opium, poppy straw, concentrate of poppy straw, and coca leaves, and of ephedrine, pseudoephedrine, and phenylpropanolamine, as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes

* * * may be so imported under such regulations as the Attorney General shall prescribe.

* * * * *

(d)(1) With respect to a registrant under section 958 who is authorized under subsection (a)(1) to import ephedrine, pseudoephedrine, or phenylpropanolamine, at any time during the year the registrant may apply for an increase in the amount of such chemical that the registrant is authorized to import, and the Attorney General may approve the application if the Attorney General determines that the approval is necessary to provide for medical, scientific, or other legitimate purposes regarding the chemical.

Editor's Note: This excerpt of the amendment is published for the convenience of the reader. The official text is published at 21 U.S.C. 952(a) and (d)(1).

The 2010 Assessment of Annual Needs represents those quantities of ephedrine, pseudoephedrine, and phenylpropanolamine which may be manufactured domestically and/or imported into the United States in 2010 to provide adequate supplies of each chemical for: The estimated medical, scientific, research, and industrial needs of the United States; lawful export requirements; and the establishment and maintenance of reserve stocks.

On June 28, 2010, a notice entitled, "Proposed Revised Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2010" was published in the **Federal Register** (75 FR 36684). This notice proposed the revised 2010 Assessment of Annual Needs for ephedrine (for sale), ephedrine (for conversion), pseudoephedrine (for sale), phenylpropanolamine (for sale) and phenylpropanolamine (for conversion).

All interested persons were invited to comment on or object to the proposed assessments on or before July 28, 2010.

Comments Received

DEA did not receive any comments to the Assessment of Annual Needs for ephedrine (for sale), ephedrine (for conversion), pseudoephedrine (for sale), phenylpropanolamine (for sale) and phenylpropanolamine (for conversion). DEA is finalizing the assessments for these List I chemicals based on information contained in applications for 2010 import, manufacturing and procurement quotas provided by DEA registered importers and manufacturers, including those quota applications that DEA received between the drafting of the June 28th notice and the drafting of this notice on August 10, 2010. DEA is providing the data used in developing the established assessments for each of the listed chemicals.

Underlying Data and DEA's Analysis

In determining the 2010 assessments, DEA has considered the total net disposals (i.e. sales) of the List I chemicals for the current and preceding two years, actual and estimated inventories, projected demand (2010), industrial use, and export requirements from data provided by DEA registered manufacturers and importers in procurement quota applications (DEA 250), from manufacturing quota applications (DEA 189), and from import quota applications (DEA 488).[1]

DEA further considered trends as derived from information provided in applications for import, manufacturing, and procurement quotas and in import and export declarations. DEA notes that the inventory, acquisitions (purchases) and disposition (sales) data provided by DEA registered manufacturers and importers reflects the most current information available.

Ephedrine (for Sale) Data

EPHEDRINE (FOR SALE) DATA FOR 2010 ASSESSMENT OF ANNUAL NEEDS

[Kilograms]

Ephedrine	2007	2008	2009	2010 Request
Sales * (DEA 250)	2,698	2,507	2,650	3,289
Imports ** (DEA 488)	9,595	1,690	2,139	2,431
Export Declarations (DEA 486)	168	18	64	n/a
Inventory * (DEA 250)	1,373	626	191	n/a
IMS *** (NSP)	1,236	1,460	1,401	n/a

* Reported sales and inventory from applications for 2010 procurement quotas (DEA 250) received as of August 10, 2010.
** Reported imports from applications for 2010 import quotas (DEA 488) received as of August 10, 2010.
*** IMS Health, IMS National Sales Perspectives™, January 2007 to December 2009, Retail and Non-Retail Channels, Data Extracted August 10, 2010.

Ephedrine (for Sale) Analysis

DEA previously has established the 2010 assessment of annual needs for ephedrine (for sale) at 3,600 kg (74 FR 60298).

As noted above, DEA developed the revisions to the 2010 assessment of annual needs for ephedrine (for sale) using the same calculation and methodology that DEA used to determine the 2009 and 2010 assessment of annual needs.

As of August 10, 2010, DEA registered manufacturers of dosage form products containing ephedrine requested the authority to purchase a total of 3,289 kg ephedrine (for sale) in 2010. DEA registered manufacturers of ephedrine reported sales totaling approximately 2,507 kg in 2008 and 2,650 kg in 2009; this represents a 5 percent increase in sales reported by these firms from 2008 to 2009. Additionally, exports of ephedrine products from the United States as reported on export declarations (DEA 486) totaled 18 kg in 2008 and 64 kg in 2009; this represents a 72 percent increase from levels observed in 2008. The average of the 2008 and 2009 exports of ephedrine products is approximately 41 kg. DEA also considered information on trends in the national rate of net disposals from sales data provided by IMS Health's NSP database. IMS NSP data reported the average sales volume of ephedrine for the calendar years 2008 and 2009 to be approximately 1,431 kg. DEA notes that the 2009 sales figure reported by manufacturers (2,650 kg) is higher than the average sales reported by IMS for the previous two years (1,431 kg). This is expected because a manufacturer's reported sales include quantities which are necessary to provide reserve stocks for distributors and retailers. DEA, in considering the manufacturer's reported sales, thus believes that 2,650 kg fairly represents the United States sales of ephedrine for 2010 and that 41 kg fairly represents the export requirements of ephedrine.

For the establishment and maintenance of reserve stocks, DEA notes that 21 CFR 1315.24 allows for an inventory allowance (reserve stock) of 50 percent of a manufacturer's estimated sales. DEA also considered the estimated 2009 year end inventory as reported by DEA registrants in determining the inventory allowance.

DEA calculated the proposed revised ephedrine (for sale) assessment as follows:

2009 sales + reserve stock + export requirement − existing inventory = AAN

2,650 + (50%*2,650) + 41 − 191 = 3,825 kg ephedrine (for sale) for 2010

This calculation suggests that DEA's assessment of annual needs for ephedrine should be 3,900 kg. DEA notes that its June 28, 2010, notice proposed to increase the ephedrine assessment to 4,100 kg. That proposal was based on information received as of March 10, 2010. Since that time DEA has received revised manufacture production data, i.e., sales and inventory information decreasing the reported sales of ephedrine for 2009. After calculating the ephedrine (for sale) assessment using the most current data—that reported by DEA registered manufactures as of August 10, 2010—DEA concludes that the proposed revised assessment of 4,100 kg would have been unnecessarily high. Accordingly, DEA is increasing the 2010 assessment of annual needs for ephedrine (for sale) from 3,600 kg to 3,900 kg.

Phenylpropanolamine (for Sale) data

[1] Applications and instructions for procurement, import and manufacturing quotas can be found at *http://www.deadiversion.usdoj.gov/quotas/quota_apps.htm.*

PHENYLPROPANOLAMINE (FOR SALE) DATA FOR 2010 ASSESSMENT OF ANNUAL NEEDS

[Kilograms]

Phenylpropanolamine (for sale)	2007	2008	2009	2010 Request
Sales* (DEA 250)	4,158	4,528	5,355	7,480
Imports** (DEA 488)	5,787	3,425	6,626	7,271
Export Declarations (DEA 486)	1,002	0	3	n/a
Inventory* (DEA 250)	3,642	2,470	645	n/a

* Reported sales and inventory from applications for 2010 procurement quotas (DEA 250) received as of August 10, 2010.
** Reported imports from applications for 2010 import quotas (DEA 488) received as of August 10, 2010.

Phenylpropanolamine (for Sale) Analysis

DEA previously has established the 2010 assessment of annual needs for phenylpropanolamine (for sale) at 6,400 kg (74 FR 60298).

As noted above, DEA utilized the same general methodology and calculation to develop the proposed revised assessment for phenylpropanolamine (for sale) that DEA used to determine the 2009 and 2010 assessment of annual needs.

As of August 10, 2010, DEA registered manufacturers of dosage form products containing phenylpropanolamine requested the authority to purchase 7,480 kg phenylpropanolamine (for sale) in 2010. DEA registered manufacturers of phenylpropanolamine reported sales totaling approximately 4,528 kg in 2008 and 5,355 kg in 2009; this represents a 15.5% increase in sales reported by these firms from 2008 to 2009. Additionally, exports of phenylpropanolamine products from the United States as reported on export declarations (DEA 486) totaled 0 kg in 2008 and 3 kg in 2009; this represents a 3 kg increase from levels observed in 2008. The average of the 2008 and 2009 exports of phenylpropanolamine products is approximately 2 kg. DEA thus believes that 5,355 kg fairly represents the United States sales of phenylpropanolamine for 2010 and that 2 kg fairly represents the export requirements of phenylpropanolamine. DEA notes that phenylpropanolamine is sold primarily as a veterinary product for the treatment for canine incontinence and is not approved for human consumption. IMS Health's NSP data does not capture sales of phenylpropanolamine to veterinary channels and is, therefore, not included.

DEA calculated the proposed revised phenylpropanolamine (for sale) assessment by the following methodology:

2009 sales + reserve stock + export requirement − existing inventory = AAN

5,355 + (50%*5,355) + 2 − 645 = 7,390 kg phenylpropanolamine (for sale) for 2010

This calculation suggests that DEA's 2010 Assessment of Annual Needs for phenylpropanolamine (for sale) should be 7,400 kg. Accordingly, DEA is increasing the 2010 assessment of annual needs for phenylpropanolamine (for sale) from 6,400 kg to 7,400 kg.

Pseudoephedrine (for Sale) Data

PSEUDOEPHEDRINE (FOR SALE) DATA FOR 2010 ASSESSMENT OF ANNUAL NEEDS

[Kilograms]

Pseudoephedrine (for sale)	2007	2008	2009	2010 Request
Sales* (DEA 250)	239,314	224,480	286,607	254,286
Sales* (DEA 189)	100,300	64,781	33,600	32,760
Imports** (DEA 488)	231,683	170,614	274,492	261,528
Export Declarations (DEA 486)	42,132	47,199	35,264	n/a
Inventory* (DEA 250)	136,039	121,374	68,100	n/a
IMS*** (NSP)	180,221	149,232	140,784	n/a

* Reported sales and inventory from applications for 2010 procurement quotas (DEA 250) and manufacturing quotas (DEA 189) received as of August 10, 2010.
** Reported imports from applications for 2010 import quotas (DEA 488) received as of August 10, 2010.
*** IMS Health, IMS National Sales Perspectives™, January 2007 to December 2009, Retail and Non-Retail Channels, Data Extracted August 10, 2010.

Pseudoephedrine (for Sale) Analysis

DEA previously has established the 2010 assessment of annual needs for pseudoephedrine (for sale) at 404,000 kg (74 FR 60298).

As noted above, DEA utilized the same general methodology and calculation to develop the proposed revised assessment for pseudoephedrine (for sale) that DEA used to determine the 2009 and 2010 assessment of annual needs.

As of August 10, 2010, DEA registered manufacturers of dosage form products containing pseudoephedrine requested the authority to purchase 254,286 kg pseudoephedrine. DEA registered manufacturers of pseudoephedrine reported sales totaling approximately 224,480 kg in 2008 and 286,607 kg in 2009; this represents a 22 percent increase in sales reported by these firms from 2008 to 2009. During the same period exports of pseudoephedrine products from the United States as reported on export declarations (DEA 486) totaled 47,199 kg in 2008 and 35,264 kg in 2009; this represents a 25 percent decrease from levels observed in 2008. The average of the 2008 and 2009 exports is 41,232 kg. Additionally, DEA considered information on trends in the national rate of net disposals from sales data provided by IMS Health. IMS NSP data reported the average retail sales volume of pseudoephedrine for the calendar years 2008 and 2009 to be approximately 145,006 kg. DEA thus believes that 286,607 kg of sales reported by manufacturers fairly represents the United States sales of pseudoephedrine for 2010 and that

41,232 kg fairly represents the export requirements of pseudoephedrine. DEA notes that manufacturer reported sales for 2009 (286,607 kg) are higher than the average retail sales reported by IMS for the previous two years (145,006 kg). This is expected because a manufacturer's reported sales include quantities which are necessary to provide reserve stocks for distributors and retailers.

DEA calculated the revised pseudoephedrine (for sale) assessment by the following methodology:

2009 sales + reserve stock + export requirement − existing inventory = AAN

286,607 + (50%*286,607) + 41,232 − 68,100 = 403,043 kg pseudoephedrine (for sale) for 2010.

This calculation suggests that DEA's 2010 assessment of annual needs for pseudoephedrine (for sale) should be 404,000 kg. DEA notes that its June 28, 2010, notice proposed to increase the pseudoephedrine assessment to 419,000 kg. That proposal was based on information received as of March 10, 2010. Since that time DEA has received additional request for quotas, revised manufacture production data, i.e., sales and inventory information, requests for withdrawal of quota, and request for adjustments to individual procurement quotas. As a result of this additional information, the 2009 reported sales of pseudoephedrine decreased from 287,756 kg to 286,607 kg and the reported inventory increased from 54,173 kg to 68,001 kg. After calculating the pseudoephedrine (for sale) assessment using the most current data—that was reported by DEA registered manufactures as of August 10, 2010—DEA concludes that the proposed revised assessment of 419,000 kg would have been unnecessarily high. Accordingly, DEA has determined that the established 2010 AAN for pseudoephedrine of 404,000 kg is appropriate and requires no change.

Phenylpropanolamine (for Conversion) Data

PHENYLPROPANOLAMINE (FOR CONVERSION) DATA FOR 2010 ASSESSMENT OF ANNUAL NEEDS

[Kilograms]

Phenylpropanolamine (for conversion)	2007	2008	2009	2010 Request
Sales * (DEA 250)	3,621	10,837	14,585	14,910
Imports ** (DEA 488)	8,250	12,019	11,373	28,408
Export Declarations (DEA 486)	0	0	0	n/a
Inventory* (DEA 250)	3,581	5,537	4,104	n/a
APQ Amphetamine ***	22,000	22,000	24,500	23,500

* Reported sales and inventory from applications for 2010 procurement quotas (DEA 250) received as of August 10, 2010.
** Reported imports from applications for 2010 import quotas (DEA 488) received as of August 10, 2010.
*** Amphetamine Aggregate Production Quota History *http://www.deadiversion.usdoj.gov/quotas/quota_history.pdf.*

Phenylpropanolamine (for Conversion) Analysis

DEA previously had established the 2010 assessment of annual needs for phenylpropanolamine (for conversion) at 16,500 kg (74 FR 60298). As noted above, DEA developed the proposed revisions to the 2010 assessment of annual needs for phenylpropanolamine (for conversion) using the same calculation and methodology that DEA used to determine the 2009 and 2010 assessment of annual needs.

As of August 10, 2010, DEA registered manufacturers of phenylpropanolamine (for conversion) requested the authority to purchase a total of 14,910 kg phenylpropanolamine for the manufacture of amphetamine. DEA registered manufacturers of phenylpropanolamine reported sales of phenylpropanolamine totaling approximately 10,837 kg in 2008 and 14,585 kg in 2009; this represents a 26 percent increase in sales reported by these firms from 2008 to 2009. There were no reported exports of phenylpropanolamine (for conversion). DEA has not received any requests to synthesize phenylpropanolamine in 2010. DEA has concluded that the 2009 sales of phenylpropanolamine (for conversion), 14,585 kg fairly represents United States requirements for 2010 and zero kg fairly represents the export requirements of phenylpropanolamine (for conversion).

DEA believes that the data provided in procurement, manufacturing, and import quota applications best represents the legitimate need for phenylpropanolamine (for conversion). Phenylpropanolamine (for conversion) is used for the manufacture of legitimate amphetamine products, but DEA notes that most legitimate amphetamine is manufactured by converting phenylacetone rather than phenylpropanolamine, to amphetamine. Basing the phenylpropanolamine (for conversion) calculation on the total Aggregate Production Quota (APQ) for amphetamine, therefore, would inaccurately inflate the phenylpropanolamine (for conversion) assessment.

DEA calculated the phenylpropanolamine (for conversion) needed for the manufacture of amphetamine as follows:

(2009 sales) + reserve stock + export requirement − inventory = AAN

(14,585) + 50%*(14,585) + 0 − 4,104 = 17,774 kg PPA (for conversion) for 2010

This calculation suggests that DEA's 2010 assessment of annual needs for phenylpropanolamine (for conversion) should be 17,800 kg. DEA notes that its June 28, 2010, notice proposed to increase the phenylpropanolamine (for conversion) assessment to 18,200 kg. That proposal was based on information received as of March 10, 2010. Since that time DEA has received additional request for quotas, revised manufacture production data, i.e., sales and inventory information, and request for adjustments to individual procurement quotas. As a result the 2009 reported inventory of phenylpropanolamine increased from 3,693 kg to 4,104 kg. After calculating the phenylpropanolamine (for conversion) assessment using the most current data—that reported by DEA registered manufactures as of August 10, 2010—DEA concludes that the proposed revised assessment of 18,200 kg would have been unnecessarily high. Accordingly, DEA is increasing the 2010 assessment of annual needs for phenylpropanolamine (for conversion) from 16,500 kg to 17,800 kg.

Ephedrine (for Conversion) Data

EPHEDRINE (FOR CONVERSION) DATA FOR 2010 ASSESSMENT OF ANNUAL NEEDS

[Kilograms]

Ephedrine (for conversion)	2007	2008	2009	2010 Request
Sales * (DEA 250)	99,594	64,522	40,387	40,600
Imports ** (DEA 488)	99,594	64,128	39,897	40,204
Inventory * (DEA 250)	0	99	208	n/a
APQ Methamphetamine ***	3,130	3,130	3,130	3,130

* Reported sales and inventory from applications for 2010 procurement quotas (DEA 250) and manufacturing quotas (DEA 189) received as of August 10, 2010.

** Reported imports from applications for 2010 import quotas (DEA 488) received as of August 10, 2010.

*** Methamphetamine Aggregate Production Quota History *http://www.deadiversion.usdoj.gov/quotas/quota_history.pdf.*

Ephedrine (for Conversion) Analysis

DEA previously has established the 2010 assessment of annual needs for ephedrine (for conversion) at 75,000 kg (74 FR 60298). As noted above, DEA developed the proposed revisions to the 2010 assessment of annual needs for ephedrine (for conversion) using the same calculation and methodology that DEA used to determine the 2009 and 2010 assessment of annual needs.

As of August 10, 2010, DEA registered manufacturers of ephedrine (for conversion) requested the authority to purchase a total of 40,600 kg ephedrine (for conversion) for the manufacture of two substances: methamphetamine and pseudoephedrine.

DEA considered the ephedrine (for conversion) requirements for the manufacture of methamphetamine and pseudoephedrine. DEA has determined that the established assessments for the manufacture of these two substances are the best indicators of the need for ephedrine (for conversion). The assessment of need for methamphetamine was determined by DEA as the APQ for methamphetamine. DEA determined that the estimated sales of pseudoephedrine by manufacturers, as referenced in the assessment of annual needs for pseudoephedrine, represents the need for pseudoephedrine. Reported sales of ephedrine (for conversion) are included as reference to DEA's methodology.

DEA further considered the reported conversion yields of these substances. DEA registered manufacturers reported a conversion yield of 39 percent for the synthesis of methamphetamine from ephedrine. DEA cannot disclose the conversion yield for the synthesis of pseudoephedrine because this information is proprietary to the one manufacturer involved in this type of manufacturing.

Thus, DEA calculated the ephedrine (for conversion) requirement for the manufacture of methamphetamine as follows:

(2009 APQ methamphetamine/39% yield) + reserve stock − inventory = ephedrine (for manufacture of methamphetamine) (3,130/39% yield) + 50%*(3,130/39% yield) − 208 = 11,830 kg

The calculation for the ephedrine (for conversion) requirement for the manufacture of pseudoephedrine leads to a result of 63,157 kg. DEA cannot provide the details of the calculation because this would reveal the conversion yield for the synthesis of pseudoephedrine, which is proprietary to the one manufacturer involved in this type of manufacturing.

Therefore, DEA determined the proposed revised assessment for ephedrine (for conversion) by summing the amounts required for the manufacture of methamphetamine and pseudoephedrine:

methamphetamine requirement + pseudoephedrine requirement = AAN 11,830 + 63,157 = 74,987 kg ephedrine (for conversion) for 2010

This calculation suggests that DEA's 2010 assessment of annual needs for ephedrine (for conversion) should be 75,000 kg. Accordingly, DEA is leaving the 2010 assessment of annual needs for ephedrine (for conversion) unchanged at 75,000 kg.

DEA did not receive any comments on its Assessment of Annual Needs for ephedrine (for sale), ephedrine (for conversion), pseudoephedrine (for sale), phenylpropanolamine (for sale) and phenylpropanolamine (for conversion). DEA is finalizing the assessments for these List I chemicals based on information contained in additional applications for 2010 import, manufacturing and procurement quotas provided by DEA registered importers and manufacturers whose quota applications were received as of August 10, 2010.

Therefore, under the authority vested in the Attorney General by section 306 of the CSA (21 U.S.C. 826), and delegated to the Administrator of the DEA by 28 CFR 0.100, and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby orders that the Revised 2010 Assessment of Annual Needs for ephedrine, pseudoephedrine, and phenylpropanolamine, expressed in kilograms of anhydrous acid or base, be established as follows:

List I chemical	Final 2010 assessment of annual needs
Ephedrine (for sale)	3,900 kg
Phenylpropanolamine (for sale).	7,400 kg
Pseudoephedrine (for sale).	404,000 kg
Phenylpropanolamine (for conversion).	17,800 kg
Ephedrine (for conversion).	75,000 kg

Regulatory Certifications

Regulatory Flexibility Act

The Deputy Administrator hereby certifies that this action will not have a significant economic impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601–612. The establishment of the assessment of annual needs for ephedrine, pseudoephedrine, and phenylpropanolamine is mandated by law. The assessments are necessary to provide for the estimated medical, scientific, research and industrial needs of the United States, for lawful export requirements, and the establishment and maintenance of reserve stocks. Accordingly, the Deputy Administrator has determined that this action does not require a regulatory flexibility analysis.

Executive Order 12866

The Office of Management and Budget has determined that notices of assessment of annual needs are not subject to centralized review under Executive Order 12866.

Executive Order 13132

This action does not preempt or modify any provision of State law; nor does it impose enforcement

responsibilities on any State; nor does it diminish the power of any State to enforce its own laws. Accordingly, this action does not have federalism implications warranting the application of Executive Order 13132.

Executive Order 12988

This action meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Unfunded Mandates Reform Act of 1995

This action will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $120,000,000 or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This action will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Dated: December 13, 2010.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 2010–31848 Filed 12–17–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

United States Parole Commission

[Public Law 94–409; 5 U.S.C. Sec. 552b]

Record of Vote of Meeting Closure

I, Isaac Fulwood, of the United States Parole Commission, was present at a meeting of said Commission, which started at approximately 12 p.m., on Tuesday, December 7, 2010, at the U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide two petitions for reconsideration pursuant to 28 CFR Section 2.27. Four Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Isaac Fulwood, Cranston J. Mitchell and Patricia K. Cushwa, J. Patricia Wilson Smoot.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: December 8, 2010.

Isaac Fulwood,

Chairman, U.S. Parole Commission.

[FR Doc. 2010–31860 Filed 12–17–10; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Diesel Particulate Matter Exposure of Underground Coal Miners

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) hereby announces the submission of the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, "Diesel Particulate Matter Exposure of Underground Coal Miners," to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

DATES: Submit comments on or before January 19, 2011.

ADDRESSES: A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain* or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an e-mail to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Mine Safety and Health Administration (MSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–4816/Fax: 202–395–6881 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Federal Mine Safety and Health Act of 1977 (Mine Act) section 101(a) provides that the Secretary of Labor shall develop, promulgate, and revise, as may be appropriate, improved mandatory health or safety standards for the protection of life and prevention of injuries in coal or other mines. In addition, Mine Act section 103(h) mandates that mine operators keep any records and make any reports that are reasonably necessary for the MSHA to perform its duties under the Mine Act. The MSHA established standards and regulations for diesel-powered equipment in underground coal mines that provide additional important protection for coal miners who work on and around diesel-powered equipment. The standards were designed to reduce the risks to underground coal miners of serious health hazards that are associated with exposure to high concentrations of diesel particulate matter. The standards contain information collection requirements for underground coal mine operators in 30 CFR 72.503 (d), 72.510, 72.520, and 75.1915. As a result of 39 CFR 72.500, manufacturers of diesel equipment are affected under 30 CFR parts 7 or 36.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is currently approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1219–0124. The current OMB approval is scheduled to expire on December 31, 2010; however, it should be noted that information collections submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on September 16, 2010, (75 FR 56560).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference OMB Control Number 1219–0124. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration (MSHA).

Title of Collection: Diesel Particulate Matter Exposure of Underground Coal Miners.

OMB Control Number: 1219–0124.

Affected Public: Business or other for-profit.

Total Estimated Number of Respondents: 165.

Total Estimated Number of Responses: 42,331.

Total Estimated Annual Burden Hours: 740.

Total Estimated Annual Costs Burden: $6425.

Dated: December 15, 2010.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2010–31845 Filed 12–17–10; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of an Open Meeting of the Advisory Committee on Apprenticeship (ACA)

AGENCY: Employment and Training Administration, Labor.

ACTION: Announcement of meeting.

SUMMARY: Pursuant to section 10 of the Federal Advisory Committee Act (Pub. L. 92 463; 5 U.S.C. APP. 1), notice is hereby given to announce an open meeting of the Advisory Committee on Apprenticeship (ACA) being held on January 10–11, 2011.

The ACA, an advisory board to the Secretary of Labor, is a discretionary Committee established by the Secretary of Labor, in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended 5 U.S.C., App. 2, and its implementing regulations (41 CFR 101–6 and 102–3). All meetings of the ACA are open to the public.

TIME AND DATE: The meeting will begin at approximately 12:30 p.m. on Monday, January 10, 2011, and continue until approximately 5 p.m. The meeting will reconvene on Tuesday, January 11, 2011, at approximately 8:30 a.m. and adjourn at approximately 5 p.m.

ADDRESSES: The meeting location is U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. John V. Ladd, Administrator, Office of Apprenticeship, ETA, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5311, Washington, DC 20210. *Telephone:* (202) 693–2796, (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Members of the public are invited to attend the proceedings. If individuals have special needs and/or disabilities that will require special accommodations, please contact Ms. Kenya Huckaby on (202) 693–3795 no later than Monday, January 3, 2011, to request for arrangements to be made. Any member of the public who wishes to file written data or comments pertaining to the agenda may do so by sending the data or comments to Mr. John V. Ladd, Administrator, Office of Apprenticeship, ETA, U.S. Department of Labor, Room N–5311, 200 Constitution Avenue, NW., Washington, DC 20210. Such submissions must be sent by Monday, January 3, 2011, to be included in the record for the meeting.

The agenda is subject to change due to time constraints and priority items which may come before the ACA between the time of this publication and the scheduled date of the ACA meeting.

Matters To Be Considered

The agenda will focus on the following topics:

- Committee's deliberations and recommendations concerning DOL's plans to revise Registered Apprenticeship's EEO regulations;
- Implementation and Policy Issues related to 29 CFR 29;
- Partnerships with Education and Workforce Systems;
- Increasing Opportunities for Under-Represented Populations through Pre-Apprenticeship; and
- Expanding Registered Apprenticeship into High Growth Industries.

Any member of the public who wishes to speak at the meeting must indicate the nature of the intended presentation and the amount of time needed by furnishing a written statement to the Designated Federal Official, Mr. John V. Ladd, by Monday, January 3, 2011. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Signed at Washington, DC, this 15th day of December 2010.

Jane Oates,

Assistant Secretary for the Employment and Training Administration.

[FR Doc. 2010–31886 Filed 12–17–10; 8:45 am]

BILLING CODE 4510–FR–P

DEPARTMENT OF LABOR

Employment and Training Administration

Request for Certification of Compliance—Rural Industrialization Loan and Grant Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration is issuing this notice to announce the receipt of a "Certification of Non-Relocation and Market and Capacity Information Report" (Form 4279–2) for the following:

Applicant/Location: Mt. Vernon Seafoods, LLC, Burlington, Washington.

Principal Product/Purpose: The loan, guarantee, or grant application is to purchase a factory processing ship; purchase equipment, materials and machinery; perform upgrades to factory processor and company owned ship; and to create working capital. The office is to be located in Burlington, Washington. The NAICS industry code for this enterprise is: 311712 Fresh and Frozen Seafood Processing.

DATES: All interested parties may submit comments in writing no later than January 3, 2011.

Copies of adverse comments received will be forwarded to the applicant noted above.

ADDRESSES: Address all comments concerning this notice to Anthony D. Dais, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210; or e-mail *Dais.Anthony@dol.gov;* or transmit via fax (202) 693–3015 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Anthony D. Dais, at telephone number (202) 693–2784 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 188 of the Consolidated Farm and Rural Development Act of 1972, as established under 29 CFR Part 75, authorizes the United States Department of Agriculture to make or guarantee loans or grants to finance industrial and business activities in rural areas. The Secretary of Labor must review the application for financial assistance for the purpose of certifying to the Secretary of Agriculture that the assistance is not calculated, or likely, to result in: (a) A transfer of any employment or business activity from one area to another by the loan applicant's business operation; or, (b) An increase in the production of goods, materials, services, or facilities in an area where there is not sufficient demand to employ the efficient capacity of existing competitive enterprises unless the financial assistance will not have an adverse impact on existing competitive enterprises in the area. The Employment and Training Administration within the Department of Labor is responsible for the review and certification process. Comments should address the two bases for certification and, if possible, provide data to assist in the analysis of these issues.

Signed at Washington, DC, this 14th day of December 2010.

Jane Oates,

Assistant Secretary for Employment and Training.

[FR Doc. 2010–31777 Filed 12–17–10; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Training and Employment Guidance (TEGL) Letter No. 13–10: Fiscal Year (FY) 2011 State Initial Allocations and the Process for Requesting Additional Trade Adjustment Assistance (TAA) Program Reserve Funds

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) of the U.S. Department of Labor is publishing, for public information, notice of the issuance and availability of TEGL 13–10 entitled, *FY 2011 State Initial Allocations and the Process for Requesting Additional TAA Program Reserve Funds,* signed on November 17, 2010, by Jane Oates, Assistant Secretary for the Employment & Training Administration.

FOR FURTHER INFORMATION CONTACT: Chris Meservy, 202–693–2806.

SUPPLEMENTARY INFORMATION:

Fiscal Year (FY) 2011 State Initial Allocations and the Process for Requesting Additional Trade Adjustment Assistance (TAA) Program Reserve Funds

1. *Purpose.* To provide States with the formula methodology used in developing the FY 2011 initial allocations and to describe the process for requesting additional TAA program reserve funds for training, job search, and relocation allowances.

2. *References.* The Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA) (Division B, Title I, Subtitle I of the "American Recovery and Reinvestment Act of 2009" (Recovery Act), Public Law (Pub. L. 111–5) (enacted February 17, 2009); Consolidated Omnibus Appropriations Act, 2009, Public Law 111–8 (enacted March 11, 2009); the Trade Act of 1974, as amended (Trade Act) (Pub. L. 93–618, as amended); Training and Employment Guidance Letter (TEGL) No. 22–08, "Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009"; Training and Employment Guidance Letter (TEGL) No. 22–08, Change 1 "Change 1 to the Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009"; TEGL 6–09, "Instructions for Implementing the Revised 2010 Trade Adjustment Assistance Trade Activity Participant Report (TAPR)"; TEGL No. 9–09, "Fiscal Year 2010 State Initial Allocations and the Process for Requesting Additional Trade Adjustment Assistance (TAA) Program Reserve Funds"; TEGL No. 9–09, Change 1, "Fiscal Year 2010 Second Distribution of Trade Adjustment Assistance (TAA) Training Funds to States"; 20 CFR Part 618 "Trade Adjustment Assistance; Merit Staffing of State Administration and Allocation of Training Funds to States; Final Rule," (75 FR 16988–17002, April 2, 2010); TEGL No. 6–09, "Instructions for implementing the revised 2010 Trade Adjustment Assistance Trade Activity Participant Report (TAPR)".

3. *Background.* On February 17, 2009, President Obama signed the Recovery Act into Law. Part of the Recovery Act, the TGAAA reauthorized and made substantial changes to the TAA program. The TGAAA amended Section 236(a)(2)(A) of the Trade Act to increase the cap on TAA training funds from $220 million to $575 million annually in both FY 2009 and FY 2010 and capped training funds for the first quarter of FY 2011 (October 1, 2010 through December 31, 2010) at $143,750,000, consistent with a projected annual allocation of $575 million under the expected reauthorization of the Act. The TGAAA further amended Section 236(a)(2)(B) and (C) of the Trade Act to:

- Require 35, rather than 25 percent of the training funds to be held in reserve;
- Provide for a "hold harmless" of 25, rather than 85 percent;
- Set timelines for the distribution of training funds; and
- Establish specific formula factors that the Employment and Training Administration (ETA) must consider in making those distributions.

The final regulations that govern these provisions, 20 CFR 618.900—618.940, went into effect April 2, 2010, with the publication of 20 CFR 618 "Trade Adjustment Assistance; Merit Staffing of State Administration and Allocation of Training Funds to States; Final Rule." Although the Recovery Act reauthorized the TAA program and raised the cap on training funds, it did not appropriate any funds for the TAA program. Rather, the Consolidated Omnibus Appropriations Act, 2009, Public Law 111–8, appropriated TAA administrative and program funds to the Federal Unemployment Benefits and Allowances (FUBA) account. The FY 2010 distributions of funds under TEGL 9–09 were FUBA appropriations. The

FY 2011 distributions will also be FUBA appropriations. Therefore, separate tracking and reporting requirements, which apply specifically to Recovery Act funds, do not apply to the TAA funds provided to the States from this and future FUBA appropriations. However, as discussed in TEGL No. 22–08, the TGAAA established new reporting requirements specific to the TAA program to increase the transparency and accountability of the program. ETA issued additional guidance on those requirements in TEGL No. 6–09, "Instructions for implementing the revised 2010 Trade Adjustment Assistance Trade Activity Participant Report (TAPR)." Funding amounts for each State are based upon TAPR data that each State submits quarterly.

4. *FY 2011 TAA Training Fund Distribution Process.* As noted above, the TGAAA increased the cap on TAA training funds from $220 million annually to $575 million for both FY 2009 and FY 2010. Under current authorization, this cap is set to expire December 31, 2010 and revert back to the $220 million level. However, there is a possibility that the higher cap will be reauthorized through FY 2011. With this in mind, two attachments have been prepared for this TEGL showing the State Initial Allocations for FY 2011. The first shows the initial allocations with reauthorization at the $220 million level and the second attachment shows the initial allocations with reauthorization at the $575 million level. For FY 2011, an amount equal to 65 percent of the annual training funds is initially distributed to States by formula and 35 percent will be held in reserve as required by the amendments and 20 CFR 618.910—618.930.

A. *TAA Formula Funds:* The initial allocation of 65 percent of training funds among the States will follow the four factors set forth in the new Section 236(a)(2)(C)(ii) of the Trade Act and explained in 20 CFR 618.910(f):

1. Trend in number of workers covered by certifications during the most recent four consecutive calendar quarters for which data are available;

2. Trend in number of workers participating in training during the most recent four consecutive calendar quarters for which data are available;

3. Number of workers estimated to be participating in training during the fiscal year; and

4. Estimated amount of funding needed to provide approved training to such workers during the fiscal year.

Factor 1 will be established using the most recent four quarters (FY 2009 Quarter 4 through FY 2010 Quarter 3) of data for certified workers by State, and the quarters will be weighted 40 percent; 30 percent; 20 percent; and 10 percent, respectively, from the most recent to the earliest quarter. This approach will establish a trend, giving the most recent quarters a greater impact on each factor than an earlier quarter will have.

Factor 2 will be established using the most recent four quarters (FY 2009 Quarter 4 through FY 2010 Quarter 3) of data for workers participating in training by State, and the quarters will be weighted 40 percent; 30 percent; 20 percent; and 10 percent, respectively, from the most recent quarter to least recent quarter. As with Factor 1, this approach will establish a trend, giving the most recent quarters a greater impact on each factor than an earlier quarter will have.

Factor 3 will be determined by dividing the weighted average number of training participants for the State determined in Factor 2 by the sum of the weighted averages for all States and multiplying the resulting ratio by the projected national average of training participants for the fiscal year, using the estimates underlying ETA's most recent budget submission or update.

Factor 4 will be calculated by multiplying the estimated number of participants in Factor 3 by the average training cost for the State. The average training cost will be calculated by dividing total training expenditures for the most recent four quarters by the average number of training participants for the same time period.

Once each of the four factors has been determined for each State, under 20 CFR 618.910(f)(3) all four factors will be assigned an equal weight. For FY 2011, the weight will be 25 percent of the total for each factor.

Section 236(a)(2)(C)(iii) of the Trade Act includes a hold harmless feature. The statute now provides that a State's initial allocation be at least 25 percent of the amount the State received in its initial allocation for the prior fiscal year. This requirement is codified at 20 CFR 618.910(c).

ETA will determine the national total and each State's percentage of the national total for each factor. Using each State's percentage of each of these weighted factors, ETA will determine the unadjusted percentage that the State will receive of the amount available for initial allocations. As provided in 20 CFR 618.910(c), (d) and (e), allocations under $100,000 will be removed, and the statutory 25 percent hold harmless factor will be applied, resulting in an adjusted FY 2011 allocation for the remaining States. If the program is reauthorized at the $575,000,000 level, the percentages for all the States will total 100 percent of $373,750,000, which is 65 percent of the training cap. If the program reverts back to the $220,000,000 level, the percentages for all the States will total 100 percent of $143,000,000, which is 65 percent of the training cap.

In those instances where the formula approach would give a State less than $100,000, 20 CFR 918.910(e)(2)(i) provides that that State will not receive any initial allocation, but may, where needed, request TAA reserve funds in accordance with the procedures described in Section B. The initial allocations for each State are attached.

B. *TAA Reserve Funds:* Funds will not be distributed under the funding formula until the funding situation becomes clearer. Until that time, States may request reserve funds. Reserve funds will be distributed to States in accordance with 20 CFR 618.920 on an as-needed basis to provide monies to those States that experience large, unexpected layoffs or otherwise have training needs that are not met by their initial allocation. These funds must be requested using the ETA–9117 (OMB No. 1205–0275).

In order to be eligible for TAA reserve funds, a State must demonstrate that at least 50 percent of its training funds have been expended or that it needs more funds to meet unusual or unexpected events. A State requesting reserve funds also must provide a documented estimate of expected funding needs through the end of the fiscal year. That estimate must be based on an analysis that includes at least the following:

- The average cost of training in the State;
- The expected number of participants in training through the end of the fiscal year; and
- The remaining funds the State has available for training.

C. *Job Search and Relocation Allowances:* States may also request job search and relocation allowances for adversely affected workers who have no reasonable expectation of obtaining suitable employment within their local commuting areas. These funds must also be requested using the ETA–9117 (OMB No. 1205–0275) and may be submitted at any time or in combination with a request for reserve training funds.

D. *TAA Program Administration Funds:* States will receive an additional 15 percent of all supplemental allocation and reserve funds for program administration, as provided by Section 235A(a)(1) of the Trade Act. Not more than two-thirds of these additional

funds may be used to cover administrative expenses, and not less than one-third of such funds may be used for the purpose of providing employment and case management services, as provided by Section 235A(a)(2) of the Trade Act. Guidance is provided in TEGL No. 22–08. If the 2009 Amendments expire, this limitation will change, and additional guidance will be provided. The administrative funds will be included each time funds are obligated to States by ETA. The program administration allocations for each State are also included in the attachment.

E. *Employment and Case Management Services Funds:* Each State that receives FY 2011 TAA funds will receive $350,000 for the purpose of providing employment and case management services to TAA participants, as provided by Section 235A(b)(1) of the Trade Act. A State that does not receive the $350,000 for case management services because it received no initial allocation will receive those funds if it subsequently receives a reserve funding allocation.

5. *Recapture of TAA Funds.* Consistent with the FY 2011 TAA Annual Cooperative Financial Agreement, ETA may recapture any funds distributed to any State in the same fiscal year as they were given if it determines that the State will not expend the funds, but only after consultation with, and appropriate notification to, State officials.

6. *Action Requested.* States will inform all appropriate staff of the contents of these instructions.

7. *Inquiries.* States should direct all inquiries to the appropriate ETA regional office.

8. *Attachments.*

Attachment A: State Initial Allocations for FY 2011 at the $220,000,000 level.

Attachment B: State Initial Allocations for FY 2011 at the $575,000,000 level.

Attachment A

State Initial Allocations for FY 2011 $220,000,000 Level

State	FY 2011 Training Initial Allocation	FY 2011 Administrative Allotment*	FY 2011 Case Management Funds	Total FY 2011 TAA Initial Allocation**
Alabama	$2,773,203	$415,980	$350,000	$3,539,184
Alaska	0	0	0	0
Arizona	807,193	121,079	350,000	1,278,272
Arkansas	2,956,424	443,464	350,000	3,749,887
California	4,673,413	701,012	350,000	5,724,425
Colorado	1,057,290	158,594	350,000	1,565,884
Connecticut	1,084,126	162,619	350,000	1,596,745
Delaware	114,734	17,210	350,000	481,944
District of Columbia	0	0	0	0
Florida	799,174	119,876	350,000	1,269,050
Georgia	3,579,640	536,946	350,000	4,466,586
Hawaii	0	0	0	0
Idaho	1,996,373	299,456	350,000	2,645,829
Illinois	5,588,352	838,253	350,000	6,776,605
Indiana	7,595,873	1,139,381	350,000	9,085,254
Iowa	1,816,963	272,544	350,000	2,439,507
Kansas	341,824	51,274	350,000	743,098
Kentucky	3,763,714	564,557	350,000	4,678,271
Louisiana	529,744	79,462	350,000	959,206
Maine	1,245,269	186,790	350,000	1,782,059
Maryland	220,446	33,067	350,000	603,513
Massachusetts	3,287,666	493,150	350,000	4,130,816
Michigan	18,264,050	2,739,608	350,000	21,353,658
Minnesota	2,420,453	363,068	350,000	3,133,521
Mississippi	946,417	141,962	350,000	1,438,379
Missouri	4,609,803	691,470	350,000	5,651,273
Montana	960,493	144,074	350,000	1,454,567
Nebraska	318,660	47,799	350,000	716,459
Nevada	0	0	0	0
New Hampshire	366,032	54,905	350,000	770,937
New Jersey	1,391,302	208,695	350,000	1,949,997
New Mexico	930,741	139,611	350,000	1,420,353
New York	3,338,590	500,788	350,000	4,189,378
North Carolina	13,865,221	2,079,783	350,000	16,295,004
North Dakota	0	0	0	0
Ohio	7,688,620	1,153,293	350,000	9,191,913
Oklahoma	1,125,346	168,802	350,000	1,644,148
Oregon	4,734,588	710,188	350,000	5,794,776
Pennsylvania	7,878,820	1,181,823	350,000	9,410,643
Puerto Rico	0	0	0	0
Rhode Island	968,358	145,254	350,000	1,463,611
South Carolina	4,567,349	685,102	350,000	5,602,451
South Dakota	393,323	58,998	350,000	802,322
Tennessee	3,176,593	476,489	350,000	4,003,082
Texas	5,094,477	764,172	350,000	6,208,649
Utah	1,025,948	153,892	350,000	1,529,840
Vermont	155,564	23,335	350,000	528,898
Virginia	2,926,882	439,032	350,000	3,715,915
Washington	3,767,764	565,165	350,000	4,682,929
West Virginia	1,413,424	212,014	350,000	1,975,437

State	FY 2011 Training Initial Allocation	FY 2011 Administrative Allotment*	FY 2011 Case Management Funds	Total FY 2011 TAA Initial Allocation**
Wisconsin	6,439,761	965,964	350,000	7,755,725
Wyoming	0	0	0	0
U.S. Total	$143,000,000	$21,450,000	$15,750,000	$180,200,000

* Each State's administrative allotment represents 15% of its FY 2011 base allocation.
** Each State's Case Management funds of $350,000 are included in the line code of Administration, along with the 15% of Administrative funds in the Notice of Obligation.
*** Each State's allocation represents the sum of its FY 2011 base allocation and administrative allotment.

Attachment B

State Initial Allocations for FY 2011
$575,000,000 Level

State	FY 2011 Training Initial Allocation	FY 2010 Administrative Allotment*	FY 2011 Case Management Funds	Total FY 2011 TAA Initial Allocation**
Alabama	$7,308,595	$1,096,289	$350,000	$8,754,884
Alaska	166,759	25,014	350,000	541,773
Arizona	2,332,435	349,865	350,000	3,032,300
Arkansas	8,166,908	1,225,036	350,000	9,741,945
California	11,117,796	1,667,669	350,000	13,135,465
Colorado	2,904,828	435,724	350,000	3,690,552
Connecticut	3,186,156	477,923	350,000	4,014,079
Delaware	231,659	34,749	350,000	616,408
District of Columbia	0	0	0	0
Florida	2,631,281	394,692	350,000	3,375,973
Georgia	8,502,423	1,275,363	350,000	10,127,786
Hawaii	0	0	0	0
Idaho	5,034,362	755,154	350,000	6,139,516
Illinois	14,329,249	2,149,387	350,000	16,828,636
Indiana	20,334,273	3,050,141	350,000	23,734,414
Iowa	6,007,033	901,055	350,000	7,258,088
Kansas	910,531	136,580	350,000	1,397,111
Kentucky	9,807,523	1,471,128	350,000	11,628,652
Louisiana	1,414,862	212,229	350,000	1,977,091
Maine	3,860,776	579,116	350,000	4,789,892
Maryland	545,111	81,767	350,000	976,878
Massachusetts	7,502,560	1,125,384	350,000	8,977,944
Michigan	49,373,714	7,406,057	350,000	57,129,772
Minnesota	6,864,454	1,029,668	350,000	8,244,122
Mississippi	2,700,710	405,107	350,000	3,455,817
Missouri	11,354,901	1,703,235	350,000	13,408,136
Montana	2,705,709	405,856	350,000	3,461,566
Nebraska	704,128	105,619	350,000	1,159,748
Nevada	132,539	19,881	350,000	502,420
New Hampshire	967,638	145,146	350,000	1,462,784
New Jersey	3,082,822	462,423	350,000	3,895,246
New Mexico	2,416,802	362,520	350,000	3,129,322
New York	9,547,195	1,432,079	350,000	11,329,275
North Carolina	33,781,867	5,067,280	350,000	39,199,147
North Dakota	263,801	39,570	350,000	653,372
Ohio	23,054,232	3,458,135	350,000	26,862,367
Oklahoma	2,494,013	374,102	350,000	3,218,115
Oregon	13,438,965	2,015,845	350,000	15,804,810
Pennsylvania	18,926,976	2,839,046	350,000	22,116,022
Puerto Rico	120,790	18,119	350,000	488,909
Rhode Island	2,485,796	372,869	350,000	3,208,666
South Carolina	10,625,910	1,593,887	350,000	12,569,797
South Dakota	1,395,998	209,400	350,000	1,955,398
Tennessee	6,928,333	1,039,250	350,000	8,317,583
Texas	12,806,484	1,920,973	350,000	15,077,456
Utah	2,970,371	445,556	350,000	3,765,926
Vermont	455,515	68,327	350,000	873,842
Virginia	8,174,563	1,226,184	350,000	9,750,747
Washington	10,120,896	1,518,134	350,000	11,989,030
West Virginia	3,641,215	546,182	350,000	4,537,397
Wisconsin	15,918,544	2,387,782	350,000	18,656,325

State	FY 2011 Training Initial Allocation	FY 2010 Administrative Allotment*	FY 2011 Case Management Funds	Total FY 2011 TAA Initial Allocation**
Wyoming	0	0	0	0
U.S. Total	$373,750,000	$56,062,500	$17,150,000	$446,962,500

* Each State's administrative allotment represents 15% of its FY 2011 base allocation.
** Each State's Case Management funds of $350,000 are included in the line code of Administration, along with the 15% of Administrative funds in the Notice of Obligation.
*** Each State's allocation represents the sum of its FY 2011 base allocation and administrative allotment.

Signed: at Washington, DC, this 14th day of December, 2010.

Jane Oates,

Assistant Secretary for Employment and Training.

[FR Doc. 2010–31844 Filed 12–17–10; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (10–161)]

NASA Advisory Council; Technology and Innovation Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the Technology and Innovation Committee of the NASA Advisory Council. The meeting will be held for the purpose of reviewing the Space Technology Program planning and review innovation activities at NASA's Kennedy Space Center (KSC).

DATES: Wednesday, January 12, 2011, 10 a.m. to 3:30 p.m., Local Time.

ADDRESSES: NASA Kennedy Space Center Visitor Center Complex, NASA Parkway West, Building M6–457, Debus Conference Facility, Kennedy Space Center, FL 32899.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Green, Office of the Chief Technologist, NASA Headquarters, Washington, DC 20546, (202) 358–4710, fax: (202) 358–4078, or *g.m.green@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

- Office of the Chief Technologist Update.
- Overview of NASA Technology Transfer and Commercialization activities.
- Presentation and discussion of Intellectual Property issues at NASA.
- Update on NASA's Space Technology Roadmap activities.
- Overviews of technology and innovation activities underway at KSC.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Public visitors attending the meeting should park at KSC Visitor Complex parking lots 4 or 5. Once parked, please proceed towards the ticket plaza. To the left of the ticket plaza will be a side gate that you may continue through to the Debus Conference Facility (yellow arrow).

Dated: December 14, 2010.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2010–31812 Filed 12–17–10; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. (Redacted), License Nos.: (Redacted), EA (Redacted); NRC–2010–0351]

In the Matter of All Power Reactor Licensees and Research Reactor Licensees Who Transport Spent Nuclear Fuel; Order Modifying License (Effective Immediately)

I

The licensees identified in Attachment 1 to this Order have been issued a specific license by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing the possession of spent nuclear fuel and a general license authorizing the transportation of spent nuclear fuel [in a transportation package approved by the Commission] in accordance with the Atomic Energy Act of 1954, as amended, and Title 10 of the *Code of Federal Regulations* (CFR) Parts 50 and 71. This Order is being issued to all such licensees who transport spent nuclear fuel. Commission regulations for the shipment of spent nuclear fuel at 10 CFR 3.37(a) require these licensees to maintain a physical protection system that meets the requirements contained in 10 CFR 73.37(b), (c), (d), and (e).

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility or regulated activity. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has been conducting a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain additional security measures are required to be implemented by licensees as prudent, interim measures, to address the current threat environment in a consistent manner. Therefore, the Commission is imposing requirements, as set forth in Attachment 2 of this Order, on all licensees identified in Attachment 1 of this Order.[1] These additional security requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the common defense and security continue to be adequately protected in the current threat environment. These requirements

[1] Attachments 1 and 2 contain SAFEGUARDS INFORMATION and will not be released to the public.

will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 2 to this Order in response to previously issued Safeguards and Threat Advisories or on their own. It is also recognized that some measures may not be possible or necessary for all shipments of spent nuclear fuel, or may need to be tailored to accommodate the licensees' specific circumstances to achieve the intended objectives and avoid any unforeseen effect on the safe transport of spent nuclear fuel.

Although the additional security measures implemented by licensees in response to the Safeguards and Threat Advisories have been adequate to provide reasonable assurance of adequate protection of common defense and security, in light of the current threat environment, the Commission concludes that the security measures must be embodied in an Order consistent with the established regulatory framework. In order to provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection to address the current threat environment, all licenses identified in Attachment 1 to this Order shall be modified to include the requirements identified in Attachment 2 to this Order. In addition, pursuant to 10 CFR 2.202, and in light of the common defense and security matters identified above which warrant the issuance of this Order, the Commission finds that the public health, safety, and interest require that this Order be immediately effective.

III

Accordingly, pursuant to Sections 53, 103, 104, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 50 and 71, *it is hereby ordered, EFFECTIVE IMMEDIATELY, that all licenses identified in attachment 1 to this order are modified as follows:*

A. All licensees shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 2 to this Order except to the extent that a more stringent requirement is set forth in the licensee's security plan. The licensees shall immediately start implementation of the requirements in Attachment 2 to the Order and shall complete implementation by December 8, 2010, unless otherwise specified in Attachment 2, or before the first shipment after January 7, 2011, whichever is earlier.

B.1. All licensees shall, within twenty (20) days of the date of this Order, notify the Commission, (1) if they are unable to comply with any of the requirements described in Attachment 2, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the licensee's justification for seeking relief from or variation of any specific requirement.

2. Any licensee that considers that implementation of any of the requirements described in Attachment 2 to this Order would adversely impact the safe transport of spent fuel must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 2 requirement in question, or a schedule for modifying the activity to address the adverse safety condition. If neither approach is appropriate, the licensee must supplement its response to Condition B1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B1.

C.1. All licensees shall, within twenty (20) days of the date of this Order, submit to the Commission a schedule for achieving compliance with each requirement described in Attachment 2.

2. All licensees shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 2.

D. Notwithstanding any provisions of the Commission's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.

Licensee responses to Conditions B1, B2, C1, and C2 above, shall be submitted to the NRC to the attention of the Director, Office of Nuclear Reactor Regulation under 10 CFR 50.4. In addition, licensee submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 CFR 73.21.

The Director, Office of Nuclear Reactor Regulation, may, in writing, relax or rescind any of the above conditions upon demonstration by the licensee of good cause.

IV.

In accordance with 10 CFR 2.202, the licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of publication of this Order in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/*

apply-certificates.html. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *Attention:* Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as Social Security Numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission. If a person other than [individual] requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by the Order and shall address the criteria set forth in 10 CFR 2.309(d).

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland, this 8th day of December 2010.

For the Nuclear Regulatory Commission.

Thomas B. Blount,

Acting Director, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–31855 Filed 12–17–10; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Form 144; OMB Control No. 3235–0101; SEC File No. 270–112]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Form 144; OMB Control No. 3235–0101; SEC File No. 270–112.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission

("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collections of information discussed below.

Form 144 (17 CFR 239.144) is used to report the sale of securities during any three-month period that exceeds 5,000 shares or other units or has an aggregate sales price that does not exceed $50,000. Under Sections 2(11), 4(1), 4(2), 4(4) and 19(a) of the Securities Act of 1933 (15 U.S.C. 77b, 77d(1)(2)(4) and 77s(a)) and Rule 144 (17 CFR 230.144) there under, the Commission is authorize to solicit the information required to be supplied by Form 144. The objectives of the rule could not be met, if the information collection was not required. The information collected must be filed with the Commission and is publicly available. Form 144 takes approximately 1 burden hour per response and is filed by 23,361 respondents for a total of 23,361 total burden hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *http://www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an e-mail to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: December 12, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–31821 Filed 12–17–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Form 6–K; OMB Control No. 3235–0116; SEC File No. 270–107]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form 6–K; OMB Control No. 3235–0116; SEC File No. 270–107.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget the request for extension of the previously approved collection of information discussed below.

Form 6–K (17 CFR 249.306) is a disclosure document under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) that must be filed by a foreign private issuer to report material information promptly after the occurrence of specified or other important corporate events that are disclosed in the foreign private issuer's home country. The purpose of Form 6–K is to ensure that U.S. investors have access to the same information that foreign investors do when making investment decisions. Form 6–K is a public document and all information provided is mandatory. Form 6–K takes approximately 8.7 hours per response and is filed by approximately 12,022 issuers annually. We estimate 75% of the 8.7 hours per response (6.525 hours) is prepared by the issuer for a total annual reporting burden of 78,444 hours (6.525 hours per response × 12,022 responses). The remaining burden hours are reflected as a cost to the foreign private issuers.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on October 14, 2010 (75 FR 63215). No comments were received.

The public may view the background documentation for this information collection at the following Web site, *http://www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an e-mail to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: December 14, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–31820 Filed 12–17–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Form BD–N/Rule 15b11–1; SEC File No. 270–498; OMB Control No. 3235–0556]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form BD–N/Rule 15b11–1; SEC File No. 270–498; OMB Control No. 3235–0556.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 15b11–1 (17 CFR 240.15b11–1) requires that futures commission merchants and introducing brokers registered with the Commodity Futures Trading Commission that conduct a business in security futures products must notice-register as broker-dealers pursuant to Section 15(b)(11)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). Form BD–N (17 CFR 249.501b) is the Form by which these entities must notice register with the Commission.

The total annual burden imposed by Rule 15b11–1 and Form BD–N is approximately 8 hours, based on approximately 21 responses (10 initial filings + 11 amendments). Each initial filing requires approximately 30 minutes to complete and each amendment requires approximately 15 minutes to complete. There is no annual cost burden.

The Commission will use the information collected pursuant to Rule 15b11–1 to understand the market for securities futures product and fulfill its regulatory obligations.

Completing and filing Form BD–N is mandatory in order for an eligible futures commission merchant or introducing broker to conduct a

business in security futures products. Compliance with Rule 15b11–1 does not involve the collection of confidential information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on October 12, 2010 (75 FR 62612). No comments were received.

The public may view the background documentation for this information collection at the following Web site, *http://www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an e-mail to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: December 12, 2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–31819 Filed 12–17–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63541; File No. SR–NYSEAmex-2010–113]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Amex Equities Rule 123C(9)(a)(1) To Extend the Operation of a Pilot Operating Pursuant to the Rule Until June 1, 2011

December 14, 2010.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 30, 2010, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Amex Equities Rule 123C(9)(a)(1) to extend the operation of a pilot operating pursuant to the Rule until June 1, 2011. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, *http://www.sec.gov,* and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Amex Equities Rule 123C(9)(a)(1) to extend the operation of a pilot that allows the Exchange to temporarily suspend certain rule requirements at the close when extreme order imbalances may cause significant dislocation to the closing price ("Extreme Order Imbalances Pilot" or "Pilot") [4] until June 1, 2011.[5] The Pilot is currently scheduled to expire on December 1, 2010.[6]

Background

Pursuant to NYSE Amex Equities Rule 123C(9)(a)(1), the Exchange may suspend NYSE Amex Equities Rule 52 (Hours of Operation) to resolve an extreme order imbalance that may result in a price dislocation at the close as a result of an order entered into Exchange systems, or represented to a Designated Market Maker ("DMM") orally at or near the close. The provisions of NYSE Amex Equities Rule 123C(9)(a)(1) operate as the Extreme Order Imbalance Pilot.

As a condition of the approval to operate the Pilot, the Exchange committed to provide the Commission with information regarding: (i) How often an NYSE Amex Equities Rule 52 temporary suspension pursuant to the Pilot was invoked during the six months following its approval; and (ii) the Exchange's determination as to how to proceed with technical modifications to reconfigure Exchange systems to accept orders electronically after 4 p.m.

During the operation of the Pilot, the Exchange believed that the systems modifications to allow Exchange systems to accept orders electronically after 4 p.m. would not be as onerous as previously believed when the Pilot was initially commenced. The Exchange completed the system modifications necessary to accept orders electronically after 4 p.m. and began the process of testing the modifications. The Exchange therefore filed to extend the Extreme Order Imbalance Pilot until the earlier of SEC approval to make such Pilot permanent or December 1, 2010.[7] At the time, the Exchange anticipated that its quality assurance review process would be completed by December 1, 2010 and it would be able to operate under the new system. The quality assurance review determined that additional testing was required in order to assure the optimal functioning of the system modifications.

Proposal To Extend the Operation of the Extreme Order Imbalance Pilot

The Exchange established the Extreme Order Imbalance Pilot to create a mechanism for ensuring a fair and orderly close when interest is received

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release Nos. 59755 (April 13, 2009), 74 FR 18009 (April 20, 2009) (SR–NYSEAltr–2009–15) (order granting approval of the Pilot); 60808 (October 9, 2009), 74 FR 53539 (October 19, 2009) (SR–NYSEAmex–2009–70) (extending the operation of the Pilot to December 31, 2009); 61265 (December 31, 2009), 75 FR 1094 (January 8, 2010) (SR–NYSEAmex–2009–96) (extending the operation of the Pilot from December 31, 2009 to March 1, 2010); 61611 (March 1, 2010), 75 FR 10530 (March 8, 2010) (SR–NYSEAmex–2010–15) (extending the operation of the Pilot from March 1, 2010 to June 1, 2010); 62293 (June 15, 2010), 75 FR 35862 (June 23, 2010) (SR–NYSEAmex–2010–50) (extending the operation of the Pilot from June 1, 2010 to December 1, 2010).

[5] The Exchange notes that parallel changes are proposed to be made to the rules of New York Stock Exchange LLC. *See* SR–NYSE–2010–79.

[6] *See* Securities Exchange Act Release No. 62293 (June 15, 2010), 75 FR 35862 (June 23, 2010) (SR–NYSEAmex–2010–50) at note 6. Due to a technical deficiency in a prior filing, the Exchange did not invoke the Pilot between June 1, 2010 and June 7, 2010.

[7] *Id.*

at or near the close that could negatively affect the closing transaction. The Exchange believes that this tool has proved very useful to resolve an extreme order imbalance that may result in a closing price dislocation at the close as a result of an order entered into Exchange systems, or represented to a DMM orally at or near the close.

NYSE Amex Equities Rule 123C(9) was intended to be and has been invoked to attract offsetting interest in rare circumstances where there exists an extreme imbalance at the close such that a DMM is unable to close the security without significantly dislocating the price. This is evidenced by the fact that during the course of the Pilot to date, the Exchange invoked the provisions of NYSE Amex Equities Rule 123C(9), including the provisions of the Extreme Order Imbalance Pilot pursuant to NYSE Amex Equities Rule 123C(9)(a)(1), in two securities on June 26, 2009, the date of the annual rebalancing of Russell Indexes. Rule 123C(9) has not been invoked at the Exchange since that time.

The Exchange proposes to extend the operation of the pilot for a six-month period. At this time, the Exchange is completing testing of functionality that would enable the electronic acceptance of orders after 4 p.m. If the tests are successful, the Exchange expects to be able to implement the new functionality by the end of December 2010. If the Exchange does not believe it will be able to implement the new functionality by the end of December 2010, it will work with the Commission to set a new target date for implementation as soon as practicable thereafter. In conjunction with the new functionality, the Exchange plans to file a proposed rule change to amend Rule 123C(9) to remove the limitation set forth in Rule 123C(9)(a)(1)(iii) that only Floor brokers can represent interest after 4 p.m. and to make Rule 123C(9) permanent.[8]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[9] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that this filing is consistent with these principles. Specifically, an extension will allow the Exchange to determine the efficacy of providing any additional functionality under this Pilot rule. The Pilot operates to protect investors and the public interest by ensuring that the closing price at the Exchange is not significantly dislocated from the last sale price by virtue of an extreme order imbalance at or near the close.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)(iii) thereunder.[11] The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has represented that it is completing testing of a functionality that would enable the electronic acceptance of orders after 4 p.m., and if successful, the Exchange expects to be able to implement the new functionality by the end of December 2010. If the Exchange will not be able to implement the new functionality by that date, it will work with the Commission to set a new target date for implementation. The Exchange also has represented that it plans to file a proposed rule change to amend Rule 123C(9) to make the pilot permanent and to remove the limitation that only Floor brokers can represent interest after 4 p.m.[12]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the pilot to continue uninterrupted, thereby permitting offsetting interest represented by floor brokers to alleviate extreme order imbalances occurring at the close until the Exchange is able to allow the electronic submission of such interest after 4 p.m. in such circumstances.[13] Accordingly, the Commission waives the 30-day operative delay requirement and designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEAmex–2010–113 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2010–113. This file number should be included on the subject line if *e-mail* is used. To help the Commission process and review your comments more efficiently, please use only one method. The

[8] *See* e-mail from Theodore Lazo, Vice President, Legal and Government Affairs, NYSE Euronext, to David Liu, Senior Special Counsel, Division of Trading and Markets, Commission, and Nathan Saunders, Special Counsel, Division of Trading and Markets, Commission, dated December 13, 2010 ("NYSE Euronext Email").

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self- regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that the Exchange has satisfied this requirement.

[12] *See* NYSE Euronext E-mail, *supra* note 8.

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSEAmex–2010–113 and should be submitted on or before January 10, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–31816 Filed 12–17–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63539; File No. SR–BX–2010–079]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Proposed Rule Change To Amend Chapter IV of the BOX Rules To Allow Executing Participants To Provide BOX a List of the Order Flow Providers for Which the Executing Participants Will Provide Directed Order Services

December 14, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 3, 2010, NASDAQ OMX BX, Inc. (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter IV, Section 5 (Obligations of Market Makers) of the Rules of the Boston Options Exchange Group, LLC ("BOX") to allow Executing Participants ("EP") [3] to provide BOX a list of the Order Flow Providers ("OFP") for which the EP will provide Directed Order services. The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/,* on the Commission's Web site at *http://www.sec.gov,* at the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the BOX's Directed Order process, Market Makers on BOX are able to handle orders on an agency basis directed to them by OFPs. An OFP sends a Directed Order to BOX with a designation of the Market Maker to whom the order is to be directed. BOX then routes the Directed Order to the appropriate Market Maker. Under Chapter VI, Section 5(c)(ii) of the BOX Rules, a Market Maker only has two choices when he receives a Directed Order: (1) Submit the order to the PIP process; or (2) send the order back to BOX for placement onto the BOX Book.

Chapter VI, Section 5(c)(i) prohibits a Market Maker from rejecting a Directed Order. This means that upon systematically indicating its desire to accept Directed Orders, the BOX system prevents a Market Maker that receives a Directed Order from either rejecting the receipt of the Directed Order from the BOX Trading Host or rejecting the Directed Order back to the OFP who sent it. A Market Maker who desires to accept Directed Orders must systemically indicate that it is an EP whenever the Market Maker wishes to receive Directed Orders from the BOX Trading Host. If a Market Maker does not systemically indicate that it is an EP, then the BOX Trading Host will not forward any Directed Orders to that Market Maker. In such a case, the BOX Trading Host will send the order directly to the BOX Book.

The Exchange proposes to amend Chapter VI, Section 5(c)(i) (Directed Order Process) of the BOX Rules to allow EPs to provide BOX a list of OFPs for which the EP will provide Directed Order services. Under the proposal, prior to accepting any Directed Order through the Trading Host, an EP must inform BOX of the OFPs from whom it has agreed to accept Directed Orders ("Listed OFPs" or "LOFPs"). The Trading Host will then only send to the EP Directed Orders from LOFPs. In addition, unlike all other orders submitted to the BOX Trading Host, Directed Orders are not anonymous based on a pilot program discussed in BSE–2006–14.[4] This practice will continue under this proposed rule change because BOX proposes that the BOX Trading Host will reveal to the EP the participant ID of the OFP sending the Directed Order. Shortly after the filing of this proposed rule change, the original proposal relating to the non-

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms not otherwise defined herein shall have the meanings prescribed within the BOX Rules.

[4] *See* Securities Exchange Act Release Nos. 53516 (March 20, 2006), 71 FR 15232 (March 27, 2006) (SR–BSE–2006–14); 54082 (June 30, 2006), 71 FR 38913 (July 10, 2006) (SR–BSE–2006–29); 54469 (September 19, 2006), 71 FR 56201 (September 26, 2006) (SR–BSE–2006–38); 55139 (January 19, 2007), 72 FR 3448 (January 25, 2007) (SR–BSE–2007–01); 56014 (July 5, 2007), 72 FR 38104 (July 12, 2007) (SR–BSE–2007–31); 57195 (January 24, 2008), 73 FR 5610 (January 30, 2008) (SR–BSE–2008–04); 59311 (January 28, 2009), 74 FR 6071 (February 4, 2009) (SR–BX–2009–007); 59983 (May 27, 2009), 74 FR 26445 (June 2, 2009) (SR–BX–2009–027); 61065 (November 25, 2009), 74 FR 62860 (December 1, 2009) (SR–BX–2009–076); 61577 (February 24, 2010), 75 FR 9464 (March 2, 2010) (SR–BX–2010–017); 61929 (April 16, 2010), 75 FR 21085 (April 22, 2010) (SR–BX–2010–031) and 62366 (June 23, 2010), 75 FR 37863 (June 30, 2010) (SR–BX–2010–041).

anonymity of Directed Orders (BSE–2005–52) will be withdrawn.[5]

Upon the withdrawal of BSE–2005–52, BSE–2006–14 will automatically expire.[6] Therefore, concurrent with the filing of the proposal, the Exchange has proposed a new Pilot Program designed to function in exactly the same manner as under the original Pilot Program ("BSE–2006–14")[7], which clarified that Directed Orders on BOX are not anonymous. The new Pilot Program allows BOX's current Directed Order rule and process to continue on an uninterrupted basis.[8] This new pilot period will afford the Commission the necessary time to consider the Exchange's proposal to amend the BOX Rules to permit EPs to only receive Directed Orders through the Trading Host from OFPs whom the EP has designated. In the event the Commission reaches a decision with respect to the Exchange's proposal to amend the BOX Rules before December 31, 2010, the Directed Order Process Pilot Program governing the Directed Order process on BOX will cease to be effective at the time of that decision.

Discretionary Service

BOX notes that in all events, whether a Market Maker elects to accept Directed Orders or chooses systematically not to accept any Directed Orders, its displayed best bid and offer are firm and accessible for automatic executions by all order submitters. In other words, the Directed Order process is a discretionary service that Market Makers may choose to provide or not, above and beyond satisfying their core market maker obligations of providing continuous two-sided firm quotations on a nondiscriminatory basis. Just as other market makers may and do choose to provide, or not, other discretionary services, such as payment for order flow, BOX Market Makers may identify the OFPs for which they may choose to provide such discretionary service as Directed Order.[9]

Consistent with the fact that the Directed Order process is a discretionary service, allowing EPs to provide BOX a list of OFPs to whom it will provide Directed Order services is not only consistent with the statute[10]—which does not prohibit broker-dealers from determining which customer for whom it will provide a discretionary service, but also is highly desirable. As is true with respect to any discretionary service, without some control over the OFPs from whom Market Makers will accept Directed Orders, Market Makers may be expected to provide less of the service. This is specifically true with respect to the Directed Order process because the automated customer protections built into the Directed Order process, absent the ability to control the OFPs for whom it will provide the service, could and almost certainly would have the unintended consequences of creating an opportunity for Options Participants to engage in abusive practices that jeopardize the ability of all Market Makers to price improve customer orders.

An EP's quote at the NBBO is taken down upon BOX's receipt of a Directed Order and yet is still guaranteed as a Firm Quote for at least three seconds regardless of whether market prices change during that time (known as the Guaranteed Directed Order ("GDO")). Because of the three second GDO, it is possible that some Options Participants, including market makers, could send large numbers of Directed Orders to EP competitors using strategies that could continually cause the EP to yield priority (if it declines to PIP the order). This outcome is particularly problematic since, at a minimum, the EP is forced to forgo whatever time priority he may have had over his competitors at the top of the BOX Book for the given option series of the Directed Order. Moreover, the EP is also obligated to provide the GDO for at least three seconds and trade with any unexecuted Directed Order quantity (but only if no other Options Participant wants to trade with the Directed Order). Essentially this means the EP will trade with the declined Directed Order only when no one else wishes to interact with that order. Without the protection of being sent Directed Orders only from LOFPs, EPs will have to modify their risk assessment and therefore give less price improvement to everyone—or perhaps stop accepting any Directed Orders and not giving price improvement at all. This effect would significantly harm the retail investors who have benefited from the BOX price improvement system since its inception.

Anonymity

Under the proposal the Exchange seeks to reveal to the EP the Participant ID of the OFP sending the Directed Order.[11] The Market Makers must submit this Participant ID to BOX whenever the Market Maker chooses to submit the Directed Order and his Primary Improvement Order to the PIP process. However, once the Directed Order is submitted to the PIP process or the BOX Book, the Participant ID is not shown to any market participant and the identity of the OFP will be anonymous pursuant to Chapter V, Section 14(e).

A similar version of the proposed directed order process regarding anonymity has been operating successfully under the Directed Order Process Pilot Program for over four and a half years without negative effect to investors or price improvement. BOX believes that allowing the Participant ID to be revealed to the EP has had a positive influence on price improvement.[12] Anonymity of market participants is not required under the Exchange Act. The identification of the OFP in the Directed Order process is consistent with the requirements set forth under Section 6(b)(5) of the Exchange Act in that it will benefit the marketplace and protect investors

[5] *See* Securities Exchange Act Release No. 53357 (February 23, 2006), 71 FR 10730 (March 2, 2006) (SR–BSE–2005–52).

[6] *See* Securities Exchange Act Release No. 62366 (June 23, 2010), 75 FR 37863 (June 30, 2010) (SR–BX–2010–041).

[7] *See also* Securities Exchange Act Release No. 63540 (December 3, 2010 [sic]) (SR–BX–2010–080). The Commission notes that SR–BX–2010–080 was filed on December 13, 2010. *See also supra* note 4. BSE–2006–14 has been in effect since March 14, 2006 as the Commission solicited comments and considered its effect on price improvement. Together these Pilots have constituted the "Directed Order Process Pilot Program".

[8] *See* Securities Exchange Act Release No. 63540 (December 3, 2010 [sic]) (SR–BX–2010–080). The Commission notes that SR–BX–2010–080 was filed on December 13, 2010.

[9] *See* Securities Exchange Act Release No. 47351 (February 11, 2003), 68 FR 8055 (February 19, 2003) SR–NASD–2002–60). As stated in the adopting release, the New York Stock Exchange comment letter on the Primex rule proposal argued that "participants may selectively trade against agency orders alone by using a mechanism to screen out professional orders." The Nasdaq Stock Market responded "that this feature ensures that any price improvement or enhanced liquidity opportunities be reserved for public customers, and not necessarily professional traders who could otherwise take advantage of the System's benefits and 'pre-empt' the ability of a public customer to receive such benefits." See Securities Exchange Act Release No. 47351 (February 11, 2003), 68 FR 8055, 8058 (February 19, 2003) (SR–NASD–2002–60). *See generally* Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388 (March 2, 2000) (stating that the Primary Market Makers and Competitive Market Makers on the ISE "will have the ability to set parameters regarding their willingness to trade generally with a broker-dealer's proprietary order.").

[10] *See* Securities Exchange Act Release No. 52827 (November 23, 2005), 70 FR 72139 (December 1, 2005) (SR–PCX–2005–56) (generally approving proposal by the Pacific Exchange to "add a provision that requires Users to be given permission by DMMs in order to send a Directed Order to that DMM.").

[11] *See supra* note 5.

[12] For example, in the month of August 2010, price improved contracts on BOX increased to an average of 204,090 per day, setting an all-time record, with total improvement to investors of $5.4 million. From its inception to August 2010, BOX had provided investors over $296 million of price improvement.

because it will give Market Makers the ability to identify the firms for whom it will provide this discretionary service. This proposal will allow Options Participants to make better informed decisions in determining when and how to use the Directed Order process, while also motivating Market Makers to continue to provide the high levels of price improvement available to investors.

In particular, BOX notes that the proposal is not designed to permit unfair discrimination between customers, brokers, or dealers, and satisfies the statutory mandates of Section 6(b)(5) of the Exchange Act because upon systematically indicating its desire to accept Directed Orders from LOFPs, the BOX system prevents a Market Maker that receives a Directed Order from either rejecting the receipt of the Directed Order from the BOX Trading Host or rejecting the Directed Order back to the OFP who sent it. Further, the BOX Rules guarantee equal access to the PIP and the BOX Book for customers, brokers, and dealers for those that do not wish to use the Directed Order process.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[13] in general, and Section 6(b)(5) of the Act,[14] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the Exchange notes that anonymity of market participants is not required under the Exchange Act and believes that this proposed rule change will benefit the marketplace and protect investors because it will give Market Makers the ability to identify the firms for whom it will provide this discretionary service. This proposal will allow Options Participants to make better informed decisions in determining when and how to use the Directed Order process, while also motivating Market Makers to continue to provide the high levels of price improvement available to investors in the BOX market.

Additionally, the Exchange believes that the proposal is not designed to permit unfair discrimination between customers, brokers, or dealers, and satisfies the statutory mandates of Section 6(b)(5) of the Exchange Act because upon systematically indicating its desire to accept Directed Orders from LOFPs, the BOX system prevents a Market Maker that receives a Directed Order from either rejecting the receipt of the Directed Order from the BOX Trading Host or rejecting the Directed Order back to the OFP who sent it. Further, the BOX Rules guarantee equal access to the PIP and the BOX Book for customers, brokers, and dealers for those that do not wish to use the Directed Order process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BX–2010–079 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2010–079. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the Exchange's principal office. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–BX–2010–079 and should be submitted on or before January 10, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–31826 Filed 12–17–10; 8:45 am]

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[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63540; File No. SR–BX–2010–080]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Continue the Practice Governing the Exchange's Directed Order Process on BOX and Maintain the Effective Date Until December 31, 2010

December 14, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 13, 2010, NASDAQ OMX BX, Inc. (the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to continue the practice governing the Exchange's Directed Order[3] process ("Pilot Program") on the Boston Options Exchange ("BOX") and maintain the effective date until December 31, 2010. The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/,* on the Commission's Web site at *http://www.sec.gov,* at the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms not otherwise defined herein shall have the meanings prescribed within the BOX Rules.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to continue the practice governing the Exchange's Directed Order[4] process ("Pilot Program") on the Boston Options Exchange ("BOX") and maintain the effective date until December 31, 2010. On December 3, 2010 the Exchange proposed an amendment to the BOX Rules governing the Directed Order process on BOX to permit Executing Participants ("EPs") to only receive Directed Orders through the Trading Host from Order Flow Providers ("OFPs") whom the EP has designated.[5] Shortly thereafter, the original corresponding proposal ("BSE–2005–52") will be withdrawn.[6] Upon the withdrawal of BSE–2005–52, the original Pilot Program ("BSE–2006–14"), which clarified that Directed Orders on BOX are not anonymous and has been operating successfully for over four-and-a-half years,[7] will automatically expire.[8] BSE–2006–14 has been in effect since March 14, 2006 as the Securities and Exchange Commission ("Commission") solicited comments and considered its effect on price improvement.[9] So as to allow BOX's current Directed Order rule and process to continue on an uninterrupted basis, this new proposed Pilot Program is designed to function in exactly the same manner as under BSE–2006–14.[10] The Exchange believes that the proposal does not raise any additional or substantive issues from those raised when the Exchange sought to implement BSE–2006–14. Additionally, the expiration date will remain December 31, 2010.

This pilot period will afford the Commission the necessary time to consider the Exchange's corresponding proposal to amend the BOX Rules to permit EPs to only receive Directed Orders through the Trading Host from OFPs whom the EP has designated.[11] In the event the Commission reaches a decision with respect to the corresponding Exchange proposal to amend the BOX Rules before December 31, 2010, the proposed Pilot Program governing the Directed Order process on BOX will cease to be effective at the time of that decision.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[12] in general, and Section 6(b)(5) of the Act,[13] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, in order to continue the Directed Order process on an uninterrupted basis, the proposal is designed to function in exactly the same manner as BOX's current Directed Order process under BSE–2006–14, clarifying that Directed Orders on BOX are not anonymous.[14] This proposed rule filing seeks to maintain the rule's effectiveness until December 31, 2010. This pilot period will afford the Commission the necessary time to consider the Exchange's corresponding proposal to amend the BOX Rules to permit EPs to only receive Directed Orders through the Trading Host from OFPs whom the EP has designated.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not

[4] Capitalized terms not otherwise defined herein shall have the meanings prescribed within the BOX Rules.

[5] *See* Securities Exchange Act Release No. 63539 (December 3, 2010) (SR–BX–2010–079).

[6] *See* Securities Exchange Act Release No. 53357 (February 23, 2006), 71 FR 10730 (March 2, 2006) (SR–BSE–2005–52). Shortly after the posting of the proposed new Pilot Program and BX–2010–079 on the Commission's Web site, the Exchange plans to withdraw BSE–2005–52.

[7] *See* Securities Exchange Act Release Nos. 34–53516 (March 20, 2006), 71 FR 15232 (March 27, 2006) (SR–BSE–2006–14); 54082 (June 30, 2006), 71 FR 38913 (July 10, 2006) (SR–BSE–2006–29); 54469 (September 19, 2006), 71 FR 56201 (September 26, 2006) (SR–BSE–2006–38); 55139 (January 19, 2007), 72 FR 3448 (January 25, 2007) (SR–BSE–2007–01); 56014 (July 5, 2007), 72 FR 38104 (July 12, 2007) (SR–BSE–2007–31); 57195 (January 24, 2008), 73 FR 5610 (January 30, 2008) (SR–BSE–2008–04); 59311 (January 28, 2009), 74 FR 6071 (February 4, 2009) (SR–BX–2009–007); 59983 (May 27, 2009), 74 FR 26445 (June 2, 2009) (SR–BX–2009–027); 61065 (November 25, 2009), 74 FR 62860 (December 1, 2009) (SR–BX–2009–076); 61577 (February 24, 2010), 75 FR 9464 (March 2, 2010) (SR–BX–2010–017); and 61929 (April 16, 2010), 75 FR 21085 (April 22, 2010) (SR–BX–2010–031).

[8] *See* Securities Exchange Act Release Nos. 62366 (June 23, 2010), 75 FR 37863 (June 30, 2010) (SR–BX–2010–041).

[9] *See* BSE–2006–14.

[10] *See* Securities Exchange Act Release No. 61929 (April 16, 2010), 75 FR 21085 (April 22, 2010) (SR–BX–2010–031).

[11] *See* Securities Exchange Act Release No. 63539 (December 3, 2010) (SR–BX–2010–079).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] *See supra* note 10.

necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) [15] of the Act and Rule 19b–4(f)(6) thereunder.[16]

A proposed rule change filed under Rule 19b–4(f)(6) [17] normally may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) [18] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii),[19] which would make the rule change effective and operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would continue the pilot for Directed Orders that has operated under BSE–2006–14. The Pilot Program is designed to function in exactly the same manner as under BSE–2006–14. A waiver would therefore continue to conform the BOX rules to BOX's current practice without interruption and clarify that Directed Orders on BOX are not anonymous.[20] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–BX–2010–080 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2010–080. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–BX–2010–080 and should be submitted on or before January 10, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–31827 Filed 12–17–10; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has met this requirement.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] *Id.*

[20] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63534; File No. SR–ISE–2010–114]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees and Rebates for Adding and Removing Liquidity

December 13, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 1, 2010, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission the proposed rule change, and on December 13, 2010, filed Amendment No. 1 to the proposed rule change, as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The ISE is proposing to amend its transaction fees and rebates for adding and removing liquidity. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ISE proposes this Amendment No. 1 to SR–ISE–2010–114. The purpose of this amendment is to make clarifying changes to Form 19b–4 and Exhibit 1 of SR–ISE–2010–114. The Exchange currently assesses a per contract transaction charge to market participants that add or remove liquidity from the Exchange ("maker/taker fees") in 100 options classes (the "Select Symbols").[3] The Exchange currently charges a take fee of: (i) $0.25 per contract for Market Maker, Market Maker Plus,[4] Firm Proprietary and Customer (Professional)[5] orders; (ii) $0.35 per contract for Non-ISE Market Maker[6] orders; (iii) $0.20 per contract for Priority Customer[7] orders for 100 or more contracts. Priority Customer orders for less than 100 contracts are not assessed a fee for removing liquidity.

The Exchange recently increased the take fee to $0.40 per contract for Market Maker, Market Maker Plus, Firm Proprietary, Customer (Professional) and Non-ISE Market Maker interest that responds to special orders.[8] In SR–ISE–2010–106, the Exchange inadvertently failed to extend the $0.40 per contract take fee for special order responses to Priority Customer interest. To correct that oversight, the Exchange now proposes to increase the take fee to $0.40 per contract for Priority Customer interest that responds to special orders.[9] A special order is an order submitted for execution in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism and Price Improvement Mechanism. A response to a special order is any contra-side interest submitted after the commencement of an auction in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism and Price Improvement Mechanism.[10] This proposed fee change will apply to Priority Customer interest, regardless of size.[11]

As noted above, special order broadcasts are sent to Exchange members when certain types of orders are entered in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism and Price Improvement Mechanism. Customers who have access to highly developed trading systems are able to quickly receive and process substantial amounts of market-wide and ISE data, thereby allowing them to selectively enter orders by responding to special order broadcasts, much like a broker-dealer does. The advanced trading systems utilized by these customers provide them with the ability to rapidly respond to updates to the special order broadcasts and market-wide data (such as changes to the NBBO and the underlying market) by aggressively submitting orders within the 3 second exposure period.

The Exchange thus proposes to charge the proposed fee of $0.40 per contract to Priority Customer interest to put them on more equal footing with other trading interest that currently pay for this functionality.

In addition, since the behavior of these customers is similar to the behavior of an ISE member, ISE believes it is reasonable for the Exchange to charge these customers the same fees as those charged to ISE members.

The Exchange has designated this proposal to be operative on December 1, 2010.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(4)[12] that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The impact of the proposal upon the net fees paid by a particular market participant will depend on a number of variables, most important of which will be its propensity to add or remove liquidity in options overlying the Select Symbols. The Exchange operates in a highly competitive market in which market participants can readily direct order flow to another exchange if they deem fee levels at a particular exchange to be excessive. The Exchange believes that

[3] Options classes subject to maker/taker fees are identified by their ticker symbol on the Exchange's Schedule of Fees. *See* Securities Exchange Act Release Nos. 61869 (April 7, 2010), 75 FR 19449 (April 14, 2010) (SR–ISE–2010–25), 62048 (May 6, 2010), 75 FR 26830 (May 12, 2010) (SR–ISE–2010–43), 62282 (June 11, 2010), 75 FR 34499 (June 17, 2010) (SR–ISE–2010–54), 62319 (June 17, 2010), 75 FR 36134 (June 24, 2010) (SR–ISE–2010–57), 62508 (July 15, 2010), 75 FR 42809 (July 22, 2010) (SR–ISE–2010–65), 62507 (July 15, 2010), 75 FR 42802 (July 22, 2010) (SR–ISE–2010–68), 62665 (August 9, 2010), 75 FR 50015 (August 16, 2010) (SR–ISE–2010–82) and 62805 (August 31, 2010), 75 FR 54682 (September 8, 2010) (SR–ISE–2010–90).

[4] A Market Maker Plus is a market maker who is on the National Best Bid or National Best Offer 80% of the time for series trading between $0.03 and $5.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $5.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium in each of the front two expiration months and 80% of the time for series trading between $0.03 and $5.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $5.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium across all expiration months in order to receive the rebate. The Exchange determines whether a market maker qualifies as a Market Maker Plus at the end of each month by looking back at each market maker's quoting statistics during that month. If at the end of the month, a market maker meets the Exchange's stated criteria, the Exchange rebates $0.10 per contract for transactions executed by that market maker during that month. The Exchange provides market makers a report on a daily basis with quoting statistics so that market makers can determine whether or not they are meeting the Exchange's stated criteria.

[5] A Customer (Professional) is a person who is not a broker/dealer and is not a Priority Customer.

[6] A Non-ISE Market Maker, or Far Away Market Maker ("FARMM"), is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), registered in the same options class on another options exchange.

[7] A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[8] *See* Securities Exchange Act Release No. 63283 (November 9, 2010), 75 FR 70059 (November 16, 2010) (SR–ISE–2010–106).

[9] The proposed fee for responses to special orders is similar to fees currently in place at other options exchanges. ISE believes the fee charged by NASDAQ OMX BOX, Inc. ("BOX") is as high as $0.50 per contract. *See* Securities Exchange Act Release No. 62632 (August 3, 2010), 75 FR 47869 (August 9, 2010) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fee Schedule of the Boston Options Exchange Facility) (SR–BX–2010–049). Additionally, NASDAQ OMX PHLX, Inc. ("PHLX") charges a take fee between $0.25 per contract and $0.45 per contract for responses to the "PIXL auction broadcast message." *See* PHLX Fee Schedule at *http://www.nasdaqtrader.com/content/marketregulation/membership/phlx/feesched.pdf.*

[10] Pre-existing Priority Customer interest that trades with special orders in the Exchange's various auctions will continue to be charged the fee noted in the Exchange's Schedule of Fees.

[11] The Exchange currently charges a fee for customers who respond to special order broadcasts in non-maker/taker symbols traded on the Exchange. *See* Securities Exchange Act Release No. 55060 (January 8, 2007), 72 FR 2050 (January 17, 2007) (SR–ISE–2006–72).

[12] 15 U.S.C. 78f(b)(4).

the proposed fees are within the range assessed by other exchanges [13] and therefore continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than to a competing exchange. The Exchange's maker/taker fees, which are currently applicable to each market participant, will continue to apply to the Select Symbols.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[14] At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–ISE–2010–114 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2010–114. This file number should be included on the subject line if e-mail is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2010–114, and should be submitted on or before January 10, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–31825 Filed 12–17–10; 8:45 am]

BILLING CODE 8011–01–P

[13] *See supra* note 7.

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63542; File No. SR–NYSE–2010–79]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 123C(9)(a)(1) To Extend the Operation of a Pilot Operating Pursuant to the Rule Until June 1, 2011

December 14, 2010.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 30, 2010, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 123C(9)(a)(1) to extend the operation of a pilot operating pursuant to the Rule until June 1, 2011. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, *http://www.sec.gov*, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Rule 123C(9)(a)(1) to extend the operation of a pilot that allows the Exchange to temporarily suspend certain rule requirements at the close when extreme order imbalances may cause significant dislocation to the closing price ("Extreme Order Imbalances Pilot" or "Pilot") [4] until June 1, 2011.[5] The Pilot is currently scheduled to expire on December 1, 2010.[6]

Background

Pursuant to NYSE Rule 123C(9)(a)(1), the Exchange may suspend NYSE Rule 52 (Hours of Operation) to resolve an extreme order imbalance that may result in a price dislocation at the close as a result of an order entered into Exchange systems or represented to a Designated Market Maker ("DMM") orally at or near the close. The provisions of NYSE Rule 123C(9)(a)(1) operate as the Extreme Order Imbalance Pilot.

As a condition of the approval to operate the Pilot, the Exchange committed to provide the Commission with information regarding: (i) How often an NYSE Rule 52 temporary suspension pursuant to the Pilot was invoked during the six months following its approval; and (ii) the Exchange's determination as to how to proceed with technical modifications to reconfigure Exchange systems to accept orders electronically after 4 p.m.

During the operation of the Pilot, the Exchange believed that the systems modifications to allow Exchange systems to accept orders electronically after 4 p.m. would not be as onerous as previously believed when the Pilot was initially commenced. The Exchange completed the system modifications necessary to accept orders electronically after 4 p.m. and began the process of testing the modifications. The Exchange therefore filed to extend the Extreme Order Imbalance Pilot until the earlier of SEC approval to make such Pilot permanent or December 1, 2010.[7] At the time, the Exchange anticipated that its quality assurance review process would be completed by December 1, 2010 and it would be able to operate under the new system. The quality assurance review determined that additional testing was required in order to assure the optimal functioning of the system modifications.

Proposal To Extend the Operation of the Extreme Order Imbalance Pilot

The Exchange established the Extreme Order Imbalance Pilot to create a mechanism for ensuring a fair and orderly close when interest is received at or near the close that could negatively affect the closing transaction. The Exchange believes that this tool has proved very useful to resolve an extreme order imbalance that may result in a closing price dislocation at the close as a result of an order entered into Exchange systems, or represented to a DMM orally at or near the close.

NYSE Rule 123C(9) was intended to be and has been invoked to attract offsetting interest in rare circumstances where there exists an extreme imbalance at the close such that a DMM is unable to close the security without significantly dislocating the price. This is evidenced by the fact that since the inception of the Pilot in April 2009, the Exchange has invoked the provisions of NYSE Rule 123C(9)(a)(1) on only five occasions, and only once since the pilot was last extended, in June 2010.

The Exchange proposes to extend the operation of the pilot for a six-month period. At this time, the Exchange is completing testing of functionality that would enable the electronic acceptance of orders after 4 p.m. If the tests are successful, the Exchange expects to be able to implement the new functionality by the end of December 2010. If the Exchange does not believe it will be able to implement the new functionality by the end of December 2010, it will work with the Commission to set a new target date for implementation as soon as practicable thereafter. In conjunction with the new functionality, the Exchange plans to file a proposed rule change to amend Rule 123C(9) to remove the limitation set forth in Rule 123C(9)(a)(1)(iii) that only Floor brokers can represent interest after 4:00 p.m. and to make Rule 123C(9) permanent.[8]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [9] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that this filing is consistent with these principles. Specifically, an extension will allow the Exchange to determine the efficacy of providing any additional functionality under this Pilot rule. The Pilot operates to protect investors and the public interest by ensuring that the closing price at the Exchange is not significantly dislocated from the last sale price by virtue of an extreme order imbalance at or near the close.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6)(iii) thereunder.[11] The Exchange

[4] *See* Securities Exchange Act Release Nos. 59755 (April 13, 2009), 74 FR 18009 (April 20, 2009) (SR–NYSE–2009–18) (order granting approval of the Pilot); 60809 (October 9, 2009), 74 FR 53532 (October 19, 2009) (SR–NYSE–2009–104) (extending the operation of the Pilot to December 31, 2009); 61264 (December 31, 2009), 75 FR 1107 (January 8, 2010) (SR–NYSE–2009–131) (extending the operation of the Pilot from December 31, 2009 to March 1, 2010); 61612 (March 1, 2010), 75 FR 10543 (March 8, 2010) (SR–NYSE–2010–11) (extending the operation of the Pilot from March 1, 2010 to June 1, 2010); 62231 (June 4, 2010), 75 FR 33872 (June 15, 2010) (SR–NYSE–2010–42) (extending the operation of the Pilot from June 1, 2010 to December 1, 2010).

[5] The Exchange notes that parallel changes are proposed to be made to the rules of NYSE Amex LLC. *See* SR–NYSEAmex–2010–113.

[6] *See* Securities Exchange Act Release No. 62231 (June 4, 2010), 75 FR 33872 (June 15, 2010) (SR–NYSE–2010–42).

[7] *Id.*

[8] *See* e-mail from Theodore Lazo, Vice President, Legal and Government Affairs, NYSE Euronext, to David Liu, Senior Special Counsel, Division of Trading and Markets, Commission, and Nathan Saunders, Special Counsel, Division of Trading and Markets, Commission, dated December 13, 2010 ("NYSE Euronext E-mail").

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the

has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange has represented that it is completing testing of a functionality that would enable the electronic acceptance of orders after 4 p.m., and if successful, the Exchange expects to be able to implement the new functionality by the end of December 2010. If the Exchange will not be able to implement the new functionality by that date, it will work with the Commission to set a new target date for implementation. The Exchange also has represented that it plans to file a proposed rule change to amend Rule 123C(9) to make the pilot permanent and to remove the limitation that only Floor brokers can represent interest after 4 p.m.[12]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the pilot to continue uninterrupted, thereby permitting offsetting interest represented by floor brokers to alleviate extreme order imbalances occurring at the close until the Exchange is able to allow the electronic submission of such interest after 4 p.m. in such circumstances.[13] Accordingly, the Commission waives the 30-day operative delay requirement and designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2010–79 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2010–79. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSE–2010–79 and should be submitted on or before January 10, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–31817 Filed 12–17–10; 8:45 am]

BILLING CODE 8011–01–P

proposed rule change, at least five business days prior to the filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission notes that the Exchange has satisfied this requirement.

[12] *See* NYSE Euronext E-mail, *supra* note 8.

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notification of Proposed Delegation Programs and Request for Comment

AGENCY: Federal Aviation Administration (DOT).

ACTION: Notice of availability and request for public comment.

SUMMARY: This notice announces the availability of and request for public comments on the proposed new delegation programs (2) that will allow organizations to perform additional functions under the Federal Aviation Administration (FAA) Organization Designation Authorization (ODA) program. These two proposed ODA programs will provide: (1) Certification functions for rotorcraft-external load operator certificates under 14 CFR part 133 and (2) the delivery of written airman knowledge tests.

DATES: Comments must be received on or before January 17, 2011.

ADDRESSES: Send all comments on both proposed delegation programs and functions to: Federal Aviation Administration, Aircraft Certification Service, Delegation and Airworthiness Programs Branch, 6500 S. MacArthur Blvd, ARB Room 308, Oklahoma City, OK 73169, *ATTN:* Sam Colasanti. Or, you may e-mail comments to: *samuel.r.colasanti@faa.gov.* Include in the subject line of your message the following: Comments on Proposed ODA Programs and Functions.

FOR FURTHER INFORMATION CONTACT: Sam Colasanti, Aerospace Engineer, Federal Aviation Administration, Aircraft Certification Service, Aircraft Engineering Division, Delegation and Airworthiness Programs Branch, to address listed above or by phone at 405.954.7044.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the two (2) proposed ODA programs listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the two proposed ODA programs may be examined, before and after the comment closing date by making arrangements with the person listed in the "For Further Information Contact" paragraph above. All communications received on or before the closing date will be considered by the Director of the Aircraft Certification Service before approval of the two (2) programs.

Background

Air Operator ODA

The FAA plans to establish two (2) new ODA program types in addition to those already established by FAA Order 8100.15, Organization Designation Authorization Procedures. Proposed revisions to FAA Order 8100.15 are available for review, and may be accessed at *http://www.faa.gov/aircraft/draft_docs/*.

This new ODA program would allow organizations to conduct certification functions for the issuance of rotorcraft external-load operator certificates, in accordance with the requirements of 14 CFR part 133. The FAA anticipates a phased-in approach to this authority, with the FAA initially retaining authority for issuance of the certificate. The actual delegation of the issuance of the certificate would only be allowed after the ODA holder had successfully shown the ability to determine compliance with all aspects of 14 CFR part 133.

Air Operator ODAs would be appointed and managed by the geographic Flight Standards District Office under the authority of the Director, Flight Standards Service. The FAA anticipates granting Air Operator ODA to only a small number of organizations based on the organization's experience and the FAA's need to delegate the authority.

Knowledge Testing ODA

This new ODA program would allow organizations to administer automated airman tests and provide certified test results to applicants. These functions are currently performed by authorized Computer Testing Designees under the provisions of FAA Order 8080.6, Conduct of Airman Knowledge Tests. Consolidation of these functions under the ODA program will standardize and align their activities and the FAA's oversight, making them consistent with other forms of ODA programs.

Knowledge Testing ODAs would be appointed and managed by The Flight Standards Airman Testing Standards Branch, AFS–630, under the authority of the Director, Flight Standards Service. The FAA anticipates that existing computer testing designees will desire to transition to the ODA program, and other organizations may be appointed as needed to make testing services available to the public.

Issued in Washington, DC, on December 15, 2010.

Susan J.M. Cabler,

Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 2010–31861 Filed 12–17–10; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2010–0046]

Notice of Request for the Extension of a Currently Approved Information Collection

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Request for Comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the following information collection: Charter Service Operations.

DATES: Comments must be submitted before February 18, 2011.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site: http://www.regulations.gov*. Follow the instructions for submitting comments on the U.S. Government electronic docket site. (*Note:* The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *http://www.regulations.gov*. Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–366–7951.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *http://www.regulations.gov*. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *http://www.regulations.gov*.

Docket: For access to the docket to read background documents and comments received, go to *http://www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

—Elizabeth Martineau, Office of Chief Counsel, (202) 366–1017, or e-mail: *Elizabeth.Martineau@dot.gov*.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Charter Service Operations.

(*OMB Number: 2132–0543).*

Background: 49 U.S.C. 5323(d) requires all applicants for financial assistance from FTA to enter into a charter bus agreement with the Secretary of Transportation (delegated to the Administrator of FTA in 49 CFR 1.51(a)). 49 U.S.C. 5323(d) provides protections for private intercity charter bus operators from unfair competition by FTA recipients. 49 U.S.C. 5302(a)(10) as interpreted by the Comptroller General permits FTA recipients, but does not state that recipients have a right, to provide charter bus service with FTA-funded facilities and equipment only if it is incidental to the provision of mass transportation service. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A

Legacy for Users (SAFETEA–LU), Public Law 109–59, 119 Stat. 1144 (2005), amended 49 U.S.C. 5323(d) with respect to remedies, provides that:

"In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement."

In addition, the Joint Explanatory Statement of the Committee of Conference, for Section 3023(d), "Condition on Charter Bus Transportation Service" of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Public Law 109–59, 119 Stat. 1144 (2005) directed FTA to "initiate a negotiated rulemaking seeking public comment on the regulations implementing section 5323(d)."

In response to the direction contained in the Conference Committee Report, FTA established a Federal advisory committee to develop, through negotiated rulemaking procedures, recommendations for improving the regulation regarding charter bus services.

On January 14, 2008, FTA published its final rule (73 FR 2326) amending the regulations which govern the provision of charter service. These regulations are implemented at 49 CFR part 604. Changes to Part 604 include clarification of the existing requirements, a newly defined "charter service," replacement of the "willing and able" process for the electronic registration of private charter providers, and the establishment of more detailed complaint, hearing, and appeal procedures.

Section 604.4 requires all applicants for Federal financial assistance under 49 U.S.C. 5301 *et seq.,* and 23 U.S.C. 103(e)(4), 142(a), and 142(c), to enter into a "Charter Service Agreement," contained in the Certifications and Assurances for FTA Assistance Programs, unless exempt under 49 CFR 604.2 or otherwise falls under an exception in 49 CFR part 604. The Certifications and Assurances become a part of the Grant Agreement or Cooperative Agreement for Federal assistance upon the recipient's receipt of Federal funds.

The January 14, 2008, amendments to 49 CFR part 604 added section 604.14, which requires that a recipient give e-mail notification to registered charter providers in the recipient's geographic service area upon receiving a request for charter service that the recipient is interested in providing pursuant to Section 604.9. In addition, 49 CFR 604.12 requires that the recipient submit the records of all instances that it has provided charter service permitted under one or more of the exceptions under Subpart B of Part 604 to the charter registration Web site 30 days after the end of each calendar quarter. The recipient must also maintain the required notices and records electronically for three years from the date of the service or lease of FTA funded equipment and/or drivers.

In order for a private charter operator to become a registered charter provider, the private charter operator must register on FTA's charter registration Web site, which can be found at *http://www.fta.dot.gov/laws/leg_reg_179.html.* Under 49 CFR 604.13, a registered charter provider must update its information on the charter registration Web site at least once every two years.

The January 14, 2008, final rule also added 49 CFR 604.7, allowing recipients to provide charter service to qualified human service organizations (QHSO) under limited circumstances. QHSOs seeking to receive free or reduced rate services from recipients and do not receive Federal funding under programs listed in appendix A to part 604 must register on FTA's charter registration Web site (49 CFR 604.15(a)).

Respondents: State and local government, business or other for-profit institutions, and non-profit institutions.

Estimated Annual Burden on Respondents: 1.75 hours for each of the 852 State and local government respondents, .05 hours for each of the 592 non-profit respondents, and 0.5 hours for each of the 64 for-profit respondents.

Estimated Total Annual Burden: 1,819 hours.

Frequency: Annually, bi-annually, quarterly, and as required.

Issued: December 14, 2010.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. 2010–31864 Filed 12–17–10; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 14, 2010.

The Department of the Treasury will submit the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. A copy of the submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

DATES: Written comments should be received on or before January 19, 2011 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0023.

Type of Review: Extension without change to a currently approved collection.

Title: Quarterly Federal Excise Tax Return.

Form: 720.

Abstract: The information supplied on Form 720 is used by the IRS to determine the correct tax liability. Additionally, the data is reported by the IRS to Treasury so that funds may be transferred from the general revenue funds to the appropriate trust funds.

Respondents: Private sector: Businesses or other for-profits.

Estimated Total Burden Hours: 4,366,381 hours.

OMB Number: 1545–0128.

Type of Review: Revision of a currently approved collection.

Title: U.S. Life Insurance Company Income Tax Return.

Form: 1120–L.

Abstract: Life insurance companies are required to file an annual return of income and compute and pay the tax due. The data is used to insure that companies have correctly reported taxable income and paid the correct tax.

Respondents: Private sector: Businesses or other for-profits.

Estimated Total Burden Hours: 644,748 hours.

OMB Number: 1545–0895.

Type of Review: Revision of a currently approved collection.

Title: General Business Credit.

Form: 3800.

Abstract: Internal Revenue Code section 38 permits taxpayers to reduce their income tax liability by the amount of their general business credit, which is an aggregation of their investment credit, jobs credit, alcohol fuel credit, research credit, low-income housing credit, disabled access credit, enhanced oil recovery credit, etc. Form 3800 is used to figure the correct credit.

Respondents: Private sector: Businesses or other for-profits.

Estimated Total Burden Hours: 5,307,500 hours.

Bureau Clearance Officer: Allan Hopkins, Internal Revenue Service,

1111 Constitution Avenue, NW., Washington, DC 20224; (202) 622–6665.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2010–31856 Filed 12–17–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

ACTION: Notice; correction.

SUMMARY: The Department of the Treasury published a document in the **Federal Register** on November 23, 2010, inviting comments on collections of information submitted to the Office of Management and Budget (OMB) for review. This document contained an incorrect reference.

Correction

In the **Federal Register** of November 23, 2010, in FR Doc. 2010–29493, make the following correction:

• Page 71489, in the first column, under *OMB Number:* 1545–0172, *Estimated Total Burden Hours:* replace "1,671,337,275" with "448,368,447".

Dated: December 13, 2010.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2010–31858 Filed 12–17–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network; Bank Secrecy Act Advisory Group; Solicitation of Application for Membership

AGENCY: Financial Crimes Enforcement Network, Department of the Treasury.

ACTION: Notice and request for nominations.

SUMMARY: FinCEN is inviting the public to nominate financial institutions and trade groups for membership on the Bank Secrecy Act Advisory Group. New members will be selected for three-year membership terms.

DATES: Nominations must be received by January 19, 2011.

ADDRESSES: Applications may be mailed (not sent by facsimile) to Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, P.O. BOX 39, Vienna, VA 22183 or e-mailed to: *BSAAG@fincen.gov.*

FOR FURTHER INFORMATION CONTACT: Clare Murphy, Regulatory Outreach Specialist at 202–354–6400.

SUPPLEMENTARY INFORMATION: The Annunzio-Wylie Anti-Money Laundering Act of 1992 required the Secretary of the Treasury to establish a Bank Secrecy Act Advisory Group (BSAAG) consisting of representatives from Federal regulatory and law enforcement agencies, financial institutions, and trade groups with members subject to the requirements of the Bank Secrecy Act, 31 CFR part 103 *et seq.* (future 31 CFR part 1000 *et seq.*) or Section 6050I of the Internal Revenue Code of 1986. The BSAAG is the means by which the Secretary receives advice on the operations of the Bank Secrecy Act. As chair of the BSAAG, the Director of FinCEN is responsible for ensuring that relevant issues are placed before the BSAAG for review, analysis, and discussion. Ultimately, the BSAAG will make policy recommendations to the Secretary on issues considered.

BSAAG membership is open to financial institutions and trade groups. New members will be selected to serve a three-year term and must designate one individual to represent that member at plenary meetings. In compliance with Executive Order 13490 of January 21, 2009, and a Presidential Memorandum signed by President Obama on June 18, 2010,[1] member organizations may not designate a representative to participate in BSAAG plenary or subcommittee meetings who is registered as a lobbyist pursuant to 2 U.S.C. 1603(a).

It is important to provide complete answers to the following items, as applications will be evaluated on the information provided through this application process. Applications should consist of:

• Name of the organization requesting membership.

• Point of contact, title, address, e-mail address and phone number.

• The BSAAG vacancy for which the organization is applying.

• Description of the financial institution or trade group and its involvement with the Bank Secrecy Act, 31 CFR part 103 *et seq.* (future 31 CFR part 1000 *et seq.*).

• Reasons why the organization's participation on the BSAAG will bring value to the group.

Based on current BSAAG position openings we encourage applications from the following sectors or types of organizations with experience working on the Bank Secrecy Act:

• State Governments (1 vacancy).

• Self-Regulatory Organizations (2 vacancies).

• Tribal Gaming (1 vacancy).

• Industry Trade Groups—Banking (1 vacancy).

• Industry Trade Groups—International (1 vacancy).

• Industry Trade Groups—Money Services Businesses (1 vacancy).

• Industry Trade Groups—Mutual Funds (1 vacancy).

• Industry Trade Groups—Securities (1 vacancy).

• Industry Trade Groups—State Level (1 vacancy).

• Industry Trade Groups—Stored Value (1 vacancy).

• Industry Representatives—Banking (2 vacancies).

• Industry Representatives—Securities/Futures (1 vacancy).

Organizations may nominate themselves, but applications for individuals who are not representing an organization for a vacancy noted above will not be considered. Members must be able and willing to make the necessary time commitment to participate on subcommittees throughout the year by phone and attend biannual plenary meetings held in Washington, DC the second Wednesday of May and October. Members will not be remunerated for their time, services, or travel. In making the selections, FinCEN will seek to complement current BSAAG members in terms of affiliation, industry, and geographic representation. The Director of FinCEN retains full discretion on all membership decisions. The Director may consider prior years' applications when making selections and does not limit consideration to institutions nominated by the public when making a selection.

Dated: December 13, 2010.

James H. Freis, Jr.,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2010–31906 Filed 12–17–10; 8:45 am]

BILLING CODE 4810–02–P

[1] Presidential Memorandum—Lobbyists on Agency Boards and Commissions (June 18, 2010), *http://www.whitehouse.gov/the-press-office/presidential-memorandum-lobbyists-agency-boards-and-commissions.*

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control

("OFAC") is publishing the names of 20 individuals and 25 entities whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act ("Kingpin Act") (21 U.S.C. 1901–1908, 8 U.S.C. 1182). In addition, OFAC is publishing additions to the identifying information associated with three individuals previously designated pursuant to the Kingpin Act.

DATES: The designation by the Director of OFAC of 20 individuals and 25 entities identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on December 14, 2010.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury consults with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security when designating and blocking the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On December 14, 2010, the Director of OFAC designated 20 individuals and 25 entities whose property and interests in property are blocked pursuant to section 805(b) of the Foreign Narcotics Kingpin Designation Act.

The list of these designees is as follows:

Individuals

1. BERNAL BERNAL, Lina Maria, c/o T PLUS S.A.S., Cota, Cundinamarca, Colombia; DOB 01 Jul 1984; Cedula No. 52818850 (Colombia) (individual) [SDNTK]

2. DORIA CASTILLO, Danit Dario, c/o INVERSIONES MINERAS H.D. EMPRESA UNIPERSONAL, Caucasia, Antioquia, Colombia; DOB 12 Jan 1971; alt. DOB 01 Dec 1971; Cedula No. 8048598 (Colombia) (individual) [SDNTK]

3. GALEANO HERRENO, Saul, c/o 7 KARNES, Bogota, Colombia; DOB 26 Oct 1940; Cedula No. 5785990 (Colombia) (individual) [SDNTK]

4. GALEANO JEREZ, Nohora, c/o ADN CONSULTORES LTDA., Bogota, Colombia; DOB 17 Sep 1968; Cedula No. 51918595 (Colombia) (individual) [SDNTK]

5. GALINDO MARTINEZ, Fernando Alberto, c/o MELRUX RICA S PIZZA, Bogota, Colombia; Calle 24C No. 75–59, Bogota, Colombia; Calle 119A No. 57–40 Torre 6 Ap. 1018, Bogota, Colombia; Carrera 45 No. 24A-05, Bogota, Colombia; Carrera 75 No. 24C–22, Bogota, Colombia; DOB 09 Apr 1971; Cedula No. 79574058 (Colombia) (individual) [SDNTK]

6. GOMEZ RUA, Adolfo Leon, c/o COMERCIALIZADORA AUTOMOTORA MATECANA LTDA., Pereira, Colombia; c/o DIGITAL COMUNICATIONS SERVICE LTDA., Bello, Antioquia, Colombia; c/o DOLAUTOS VEHICULOS E INMUEBLES Y CIA. LTDA., Medellin, Colombia; c/o INVERSIONES BUENOS AIRES LTDA., Pereira, Colombia; DOB 28 Apr 1964; POB Bello, Antioquia, Colombia; Cedula No. 98487118 (Colombia) (individual) [SDNTK]

7. HERRENO BARRERA, Alejandro, c/o MOJETE PARRILLA, Bogota, Colombia; DOB 13 May 1977; Cedula No. 79852514 (Colombia) (individual) [SDNTK]

8. ISAZA ALVAREZ, Carlos Arturo, c/o AGROFUTURO R.H. Y CIA. S.C.S., Medellin, Colombia; c/o COMERCIALIZADORA AUTOMOTORA MATECANA LTDA., Pereira, Colombia; c/o COMERCIALIZADORA EL PROVEEDOR LTDA., Villavicencio, Colombia; c/o INVERSIONES BUENOS AIRES LTDA., Pereira, Colombia; c/o INVERSIONES Y DISTRIBUCIONES COLOMBIANAS EL OASIS LTDA., Villavicencio, Colombia; c/o PROVEEDORES Y DISTRIBUIDORES NACIONALES S.A., Bogota, Colombia; DOB 15 Aug 1947; Cedula No. 8281272 (Colombia) (individual) [SDNTK]

9. MARTINEZ, Alicia (a.k.a. MARTINEZ GALINDO, Alicia), c/o AMG RICAS PIZZA, Bogota, Colombia; DOB 26 Mar 1948; Cedula No. 41386662 (Colombia) (individual) [SDNTK]

10. MOLANO TORRES, Deysi Yamile, Calle 12 No. 10A–60, Fuente de Oro, Meta, Colombia; San Jose del Guaviare, Colombia; Villavicencio, Colombia; DOB 23 Aug 1986; POB Puerto Rico, Meta, Colombia; Cedula No. 1123530588 (Colombia) (individual) [SDNTK]

11. PENA TORRES, Miguel de los Santos, c/o COMERCIALIZADORA EL PROVEEDOR LTDA., Villavicencio, Colombia; c/o HACIENDA VENDAVAL, Paratebueno, Cundinamarca, Colombia; c/o INVERSIONES Y DISTRIBUCIONES COLOMBIANAS EL OASIS LTDA., Villavicencio, Colombia; c/o PROVEEDORES Y DISTRIBUIDORES NACIONALES S.A., Bogota, Colombia; Carrera 47A No. 22–40 Apto. 504, Bogota, Colombia; DOB 07 Jul 1941; POB Santa Rosa de Viterbo, Boyaca, Colombia; Cedula No. 5549825 (Colombia) (individual) [SDNTK]

12. REY REY, Blanca Lucy, c/o SERVICIOS TURISTICOS EL GALERON LLANERO LTDA., San Martin, Meta, Colombia; c/o SUCESORES DE HERNANDO SANCHEZ V S.C.S., Bogota, Colombia; Avenida 19 No. 118–30, Bogota, Colombia; Hacienda Santa Rosa, San Martin, Meta, Colombia; DOB 01 Jul 1953; Cedula No. 41616052 (Colombia) (individual) [SDNTK]

13. RODRIGUEZ ROMERO, Martha Ines, c/o AGROPECUARIA SERRO S.A.S., Bogota, Colombia; c/o FERTILIZANTES LIQUIDOS DE LA SABANA LTDA., Bogota, Colombia; Calle 109 No. 21–41 Apto. 403, Bogota, Colombia; Calle 109 No. 21–01 Apto. 401, Bogota, Colombia; DOB 18 May 1953; POB Bogota, Colombia; Cedula No. 41590271 (Colombia) (individual) [SDNTK]

14. ROMERO BARRERA, Benedicto, c/o AGROFUTURO R.H. Y CIA. S.C.S., Medellin, Colombia; c/o COLOMBIAN GREEN STONE CORPORATION LTDA.,

Bogota, Colombia; c/o ONLYTEX S.A., Sabaneta, Antioquia, Colombia; DOB 06 Jan 1964; POB Campohermoso, Boyaca, Colombia; Cedula No. 1015491 (Colombia) (individual) [SDNTK]

15. SANCHEZ REY, Alberto de Set, c/o SERVICIOS TURISTICOS EL GALERON LLANERO LTDA., San Martin, Meta, Colombia; c/o SUCESORES DE HERNANDO SANCHEZ V S.C.S., Bogota, Colombia; Avenida 19 No. 118–30 Of. 302, Bogota, Colombia; Hacienda Santa Rosa, San Martin, Meta, Colombia; DOB 01 Jan 1972; Cedula No. 79568901 (Colombia); Matricula Mercantil No 1969885 (Colombia) (individual) [SDNTK]

16. SANCHEZ REY, German Gonzalo (a.k.a. "COLETA"), c/o SERVICIOS TURISTICOS EL GALERON LLANERO LTDA., San Martin, Meta, Colombia; c/o SUCESORES DE HERNANDO SANCHEZ V S.C.S., Bogota, Colombia; Calle 41A No. 55–49, Bogota, Colombia; DOB 22 Feb 1973; POB Barrancabermeja, Santander, Colombia; Cedula No. 79625841 (Colombia) (individual) [SDNTK]

17. SANCHEZ REY, Hernando, c/o SERVICIOS TURISTICOS EL GALERON LLANERO LTDA., San Martin, Meta, Colombia; c/o SUCESORES DE HERNANDO SANCHEZ V S.C.S., Bogota, Colombia; Avenida 19 No. 118–30 Of. 302, Bogota, Colombia; DOB 8 Jul 1974; Cedula No. 79626433 (Colombia); Matricula Mercantil No 1738008 (Colombia) (individual) [SDNTK]

18. SERRALDE PLAZA, Carlos Fernando, c/o AGROPECUARIA SERRO S.A.S., Bogota, Colombia; c/o OBRAS, SERVICIOS Y MANTENIMIENTOS C.A., Ciudad Ojeda, Zulia, Venezuela; Calle 98 Bis No. 57–66, Bogota, Colombia; Calle 136 No. 59–80 Apto. 102 T–6, Bogota, Colombia; DOB 08 Nov 1950; POB Popayan, Cauca, Colombia; Cedula No. 19134433 (Colombia); alt. Cedula No. 83406533 (Venezuela); Matricula Mercantil No 1751356 (Colombia) (individual) [SDNTK]

19. SERRALDE RODRIGUEZ, Carlos Hernan, c/o AGROPECUARIA SERRO S.A.S., Bogota, Colombia; c/o ASOCIACION COLOMBIANA DE CRIADORES DE GANADO LIMOUSIN, Bogota, Colombia; Calle 152 No. 58–51 Apto. 501—Torre 5, Bogota, Colombia; DOB 08 Oct 1975; POB Bogota, Colombia; Cedula No. 79689496 (Colombia) (individual) [SDNTK]

20. ZARATE MORENO, Rutdy Alirio (a.k.a. "RUNCHO"), c/o IMPORTACIONES Y EXPORTACIONES ZAFIRO S.L., Madrid, Spain; Calle 68 No. 60–10, Bogota, Colombia; DOB 19 Mar 1968; Cedula No. 80368114 (Colombia); Matricula Mercantil No 513926 (Colombia) (individual) [SDNTK]

Entities

1. 7 KARNES, Avenida Ciudad de Cali No. 15A–91, Local A06–07, Bogota, Colombia; Matricula Mercantil No 1978075 (Colombia) [SDNTK]

2. ADN CONSULTORES LTDA., Calle 58 No. 20–45 P 3, Bogota, Colombia; NIT #830109795–8 (Colombia) [SDNTK]

3. AGROFUTURO R.H. Y CIA. S.C.S., Calle 80 Sur No. 47D–65 Bod. 114, Medellin, Colombia; NIT #811039023–0 (Colombia) [SDNTK]

4. AGROPECUARIA SERRO S.A.S. (a.k.a. AGROSERRO), Carrera 14A No. 101–11 Of. 403, Bogota, Colombia; Finca Criadero Las Palmas, Guaymaral, Cundinamarca, Colombia; NIT #890935433–8 (Colombia) [SDNTK]

5. AMG RICAS PIZZA (a.k.a. FUSION PIZZA & PARRILLA; a.k.a. RICA'S PIZZA), Carrera 45 No. 24A–05, Bogota, Colombia; Matricula Mercantil No 1323961 (Colombia) [SDNTK]

6. ASOCIACION COLOMBIANA DE CRIADORES DE GANADO LIMOUSIN (a.k.a. ASOLIMOUSIN), Carrera 14A No. 101–11 Of. 403, Bogota, Colombia; NIT #800099351–8 (Colombia) [SDNTK]

7. CIA. AGROINDUSTRIAL PALMERA S.A. (a.k.a. AGROINDUPALMA S.A.), C.C. Villacentro Blq. B Ofc. 414, Villavicencio, Colombia; NIT #900197835–3 (Colombia) [SDNTK]

8. COLOMBIAN GREEN STONE CORPORATION LTDA., Calle 136 No. 30–49, Bogota, Colombia; NIT #830112015–2 (Colombia) [SDNTK]

9. COMERCIALIZADORA AUTOMOTORA MATECANA LTDA., Carrera 13 No. 69–00 Avenida 30 de Agosto, Pereira, Colombia; NIT #816002220–3 (Colombia) [SDNTK]

10. COMERCIALIZADORA EL PROVEEDOR LTDA., Carrera 38 No. 26B–11 Of. 201, Villavicencio, Colombia; NIT #860524177–4 (Colombia) [SDNTK]

11. DIGITAL COMUNICATIONS SERVICE LTDA., Carrera 14 No. 19–3, Granada, Meta, Colombia; Diagonal 55 No. 34–52, Bello, Antioquia, Colombia; NIT #900020090–3 (Colombia) [SDNTK]

12. DOLAUTOS VEHICULOS E INMUEBLES Y CIA. LTDA. (a.k.a. TALLER RAMIAUTOS I.P.), Carrera 45 No. 31–208, Medellin, Colombia; Matricula Mercantil No 21–164137–02 (Colombia); NIT #800245860- 1 (Colombia) [SDNTK]

13. FERTILIZANTES LIQUIDOS DE LA SABANA LTDA. (a.k.a. FERTILISA LTDA.), Calle 98 Bis No. 57–66, Bogota, Colombia; Calle 98 Bis No. 71A–66, Bogota, Colombia; Via Siberia-Cota Km. 6, Vereda Rozo, Finca Ancon, Cota, Cundinamarca, Colombia; NIT #860536101–7 (Colombia) [SDNTK]

14. IMPORTACIONES Y EXPORTACIONES ZAFIRO S.L., Calle Gran Via, 31, Madrid 28013, Spain; C.I.F. B83065458 (Spain) [SDNTK]

15. INVERSIONES BUENOS AIRES LTDA. (a.k.a. HOTEL CABANAS EL OTUN), Avenida 30 de Agosto No. 87–580, Pereira, Colombia; NIT #800002386–9 (Colombia) [SDNTK]

16. INVERSIONES MINERAS H.D. EMPRESA UNIPERSONAL, Calle 16 No. 15–09, Caucasia, Antioquia, Colombia; Carrera 2A No. 19–15, Caucasia, Antioquia, Colombia; NIT #811008231–3 (Colombia) [SDNTK]

17. INVERSIONES Y DISTRIBUCIONES COLOMBIANAS EL OASIS LTDA. (a.k.a. ALMACEN EL OASIS; a.k.a. INDISCOL LTDA.), Calle 18 No. 13-85, Granada, Meta, Colombia; Carrera 43 No. 18–50 Casa E–8, Villavicencio, Colombia; NIT #800040864–1 (Colombia) [SDNTK]

18. LADRILLERA EL PORVENIR LTDA., Km. 5 Via al Retorno, San Jose del Guaviare, Colombia; NIT # 900054472–1 (Colombia) [SDNTK]

19. MELRUX RICA S PIZZA, Carrera 75 No. 24C- 22/24, Bogota, Colombia; Carrera 77A No. 41–20/22, Bogota, Colombia; Matricula Mercantil No 1158291 (Colombia) [SDNTK]

20. MOJETE PARRILLA, Carrera 75 No. 24C–15, Bogota, Colombia; Matricula Mercantil No 1980500 (Colombia) [SDNTK]

21. OBRAS, SERVICIOS Y MANTENIMIENTOS C.A. (a.k.a. OSERMACA), Av. Cristobal Colon, Arterial 7, Centro Empresarial Colon, Planta Alta, Ofic. B1, Ciudad Ojeda, Zulia, Venezuela; RIF #J–31136071–9 (Venezuela) [SDNTK]

22. ONLYTEX S.A., Calle 80 Sur No. 47D–65, Sabaneta, Antioquia, Colombia; NIT # 811029489–6 (Colombia) [SDNTK]

23. SERVICIOS TURISTICOS EL GALERON LLANERO LTDA. (a.k.a. PARADOR TURISTICO Y HOTEL GALERON LLANERO), Avenida 19 No. 118–30 Ofc. 302, Bogota, Colombia; Calle 6 No. 17–99, San Martin, Meta, Colombia; NIT #900025014–6 (Colombia) [SDNTK]

24. SUCESORES DE HERNANDO SANCHEZ V S.C.S., Avenida 19 No. 118–30 Ofc. 302, Bogota, Colombia; La Dorada, Caldas, Colombia; San Martin, Meta, Colombia; NIT #860071634–3 (Colombia) [SDNTK]

25. T PLUS S.A.S., Km. 3.5 Autop. Medellin Via Siberia Costado Sur Terminal, Terrestre de Carga Bloque 4 Bod. 32, Cota, Cundinamarca, Colombia; NIT #900345355–5 (Colombia) [SDNTK]

In addition, OFAC has made additions to the identifying information associated with the following three individuals previously designated pursuant to the Kingpin Act:

1. ECHEVERRY CADAVID, Nebio De Jesus (a.k.a. ECHEVERRI, Nevio; a.k.a. ECHEVERRY, Nevio), c/o HACIENDA VENDAVAL, Paratebueno, Cundinamarca, Colombia; c/o PROVEEDORES Y DISTRIBUIDORES NACIONALES S.A., Bogota, Colombia; Carrera 10 No. 46–43, Pereira, Colombia; Carrera 38 No. 26B–11, Villavicencio, Colombia; La Pastora, Vereda La Union, Dosquebradas, Risaralda, Colombia; DOB 28 Nov 1944; Cedula No. 10056431 (Colombia) (individual) [SDNTK]

2. LOPEZ CADAVID, Oscar De Jesus, c/o PROVEEDORES Y DISTRIBUIDORES NACIONALES S.A., Bogota, Colombia; Hacienda San Lorenzo, Paratebueno, Cundinamarca, Colombia; DOB 21 Jun 1956; Cedula No. 15502188 (Colombia) (individual) [SDNTK]

3. OSPINA MURILLO, Wilmer, c/o CIA. COMERCIALIZADORA DE MOTOCICLETAS Y REPUESTOS S.A., Granada, Meta, Colombia; c/o ESTACION DE SERVICIO LA FLORESTA DE FUENTE DE ORO, Fuente de Oro, Meta, Colombia; c/o ESTACION DE SERVICIO LA TURQUESA, Puerto Lleras, Meta, Colombia; c/o ESTACION DE SERVICIO SERVIAGRICOLA DEL ARIARI, Puerto Lleras, Meta, Colombia; c/o LA TASAJERA DE FUENTE DE ORO, Fuente de Oro, Meta, Colombia; c/o WISMOTOS FUENTE DE ORO, Fuente de Oro, Meta, Colombia; DOB 26 May 1970; Cedula No. 17344677 (Colombia) (individual) [SDNTK].

The listings for these individuals now appear as follows:

1. ECHEVERRY CADAVID, Nebio De Jesus (a.k.a. ECHEVERRI, Nevio; a.k.a. ECHEVERRY, Nevio), c/o COMERCIALIZADORA AUTOMOTORA MATECANA LTDA., Pereira, Colombia; c/o DIGITAL COMUNICATIONS SERVICE LTDA., Bello, Antioquia, Colombia; c/o HACIENDA VENDAVAL, Paratebueno, Cundinamarca, Colombia; c/o INVERSIONES BUENOS AIRES LTDA., Pereira, Colombia; c/o LADRILLERA EL PORVENIR LTDA., San Jose del Guaviare, Colombia; c/o PROVEEDORES Y DISTRIBUIDORES NACIONALES S.A., Bogota, Colombia; Carrera 10 No. 46–43, Pereira, Colombia; Carrera 38 No. 26B–11, Villavicencio, Colombia; La Pastora, Vereda La Union, Dosquebradas, Risaralda, Colombia; DOB 28 Nov 1944; Cedula No. 10056431 (Colombia) (individual) [SDNTK]

2. LOPEZ CADAVID, Oscar De Jesus, c/o COLOMBIAN GREEN STONE CORPORATION LTDA., Bogota, Colombia; c/o DIGITAL COMUNICATIONS SERVICE LTDA., Bello, Antioquia, Colombia; c/o LADRILLERA EL PORVENIR LTDA., San Jose del Guaviare, Colombia; c/o PROVEEDORES Y DISTRIBUIDORES NACIONALES S.A., Bogota, Colombia; Hacienda San Lorenzo, Paratebueno, Cundinamarca, Colombia; DOB 21 Jun 1956; Cedula No. 15502188 (Colombia) (individual) [SDNTK]

3. OSPINA MURILLO, Wilmer, c/o CIA. AGROINDUSTRIAL PALMERA S.A., Villavicencio, Colombia; c/o CIA. COMERCIALIZADORA DE MOTOCICLETAS Y REPUESTOS S.A., Granada, Meta, Colombia; c/o ESTACION DE SERVICIO LA FLORESTA DE FUENTE DE ORO, Fuente de Oro, Meta, Colombia; c/o ESTACION DE SERVICIO LA TURQUESA, Puerto Lleras, Meta, Colombia; c/o ESTACION DE SERVICIO SERVIAGRICOLA DEL ARIARI, Puerto Lleras, Meta, Colombia; c/o LA TASAJERA DE FUENTE DE ORO, Fuente de Oro, Meta, Colombia; c/o WISMOTOS FUENTE DE ORO, Fuente de Oro, Meta, Colombia; DOB 26 May 1970; Cedula No. 17344677 (Colombia) (individual) [SDNTK]

Dated: December 14, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2010–31809 Filed 12–17–10; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated National Pursuant to Executive Order 13413

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the name of an individual whose property and interests in property have been unblocked pursuant to Executive Order 13413 of October 27, 2006, "Blocking Property of Persons Contributing to the Conflict in the Democratic Republic of Congo" and who has been removed from OFAC's list of Specially Designated Nationals and Blocked Persons ("SDN List").

DATES: The unblocking and removal from the SDN List of the individual identified in this notice is effective on December 14, 2010.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) via facsimile through a 24-hour fax-on demand service, tel.: (202) 622–0077.

Background

On October 27, 2006, the President signed Executive Order 13413 (the "Order") pursuant to, inter alia, the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c) (UNPA), and section 301 of title 3, United States Code. In the Order, the President declared a national emergency and imposed sanctions relating to the situation in the Democratic Republic of the Congo.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in, or hereafter come within, the United States, or within the possession or control of United States persons, of persons determined by the Secretary of the Treasury, after consultation with the Secretary of State, to meet any of the criteria set forth in subparagraphs (a)(i)—(ii)(G) of Section 1.

On December 14, 2010, the Director of OFAC unblocked the property and interest in property of the individual listed below, pursuant to E.O. 13413 and removed him from the SDN List.

The former listing of the unblocked individual appeared as follows:

KISONI, Kambale (a.k.a. KAMBALE, Kisoni; a.k.a. KISONI, Dr.); DOB 24 May 1961; citizen Congo, Democratic Republic of the; Passport C0323172 (Congo, Democratic Republic of the) (individual) [DRCONGO]

Dated: December 14, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2010–31880 Filed 12–17–10; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to Executive Order 13288, as Amended by Executive Order 13391

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the names of three individuals whose property and interests in property have been unblocked pursuant to Executive Order 13288 of March 6, 2003, "Blocking Property of Persons Undermining Democratic Processes or Institutions in Zimbabwe," as amended by Executive Order 13391 of November 22, 2005, "Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe."

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons ("SDN List") of the three individuals identified in this notice whose property and interests in property were blocked pursuant to Executive 13288 of March 6, 2003, as amended by Executive Order 13391 of November 22, 2005, is effective on December 14, 2010.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on demand service tel.: (202) 622–0077.

Background

On March 6, 2003, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701–06) ("IEEPA") issued Executive Order 13288 (68 FR 11457, March 10, 2003). In Executive Order 13288, the President declared a national emergency to deal with the threat posed by the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions, contributing to the deliberate breakdown in the rule of law in Zimbabwe, to politically motivated violence and intimidation in that country, and to political and economic instability in the southern African region. The Annex to Executive Order 13288 included 77 individuals, including two of the three individuals identified in this notice, which resulted in the blocking of all property and interests in property of these individuals that was or thereafter came within the United States or the possession or control of U.S. persons. Executive Order 13288 also authorized the Secretary of the Treasury, in consultation with the Secretary of State, to designate additional persons determined to meet the criteria set forth in Executive Order 13288.

On November 22, 2005, in order to take additional steps with respect to the continued actions and policies of certain persons who undermine Zimbabwe's democratic processes and with respect to the national emergency described and declared in Executive Order 13288, the President, invoking the authority of, *inter alia,* IEEPA, issued Executive Order 13391 (70 FR 71201, November 25, 2005). Executive Order 13391 amends Executive Order 13288 and provides that the Annex to Executive Order 13288 is replaced and superseded in its entirety by the Annex to Executive Order 13391, containing the names of 128 individuals and 33 entities, including the three individuals identified in this notice.

Executive Order 13288, as amended by Executive Order 13391, authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to block the property and interests in property of additional categories of persons beyond the category set forth in Executive Order 13288 prior to its amendment.

Executive Order 13288, as amended by Executive Order 13991, also authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to determine that circumstances no longer warrant the inclusion of a person in the Annex to Executive Order 13288, as replaced and superseded by the Annex to Executive Order 13991, and to unblock any property and interests in property that had been blocked as a result of the person's inclusion in the Annex.

On December 14, 2010, the Director of OFAC, in consultation with the State Department, determined that circumstances no longer warrant the inclusion of the individuals listed below in the Annex to Executive Order 13288, as replaced and superseded by the Annex to Executive Order 13391, and that the property and interests in property of the individuals listed below are therefore no longer blocked pursuant to section 1(a) of Executive Order 13288, as amended by Executive Order 13391, and accordingly removed them from the SDN List.

- DABENGWA, Dumiso; DOB 6 Dec 1939; Passport AD000005 (Zimbabwe); Politburo Committee Member (individual) [ZIMBABWE]
- DABENGWA, Ijeoma; DOB 27 Oct 1971; Passport AN032426 (Zimbabwe); Child of Dumiso Dabengwa (individual) [ZIMBABWE]
- LESABE, Thenjiwe; DOB 5 Jan 1933; Politburo Committee Member (individual) [ZIMBABWE]

Dated: December 14, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2010–31822 Filed 12–17–10; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated National and Blocked Person Pursuant To Executive Order 13348

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is publishing the name of one individual whose property and interests in property have been unblocked pursuant to Executive Order 13348 of July 22, 2004, "Blocking Property of Certain Persons and Prohibiting the Importation of Certain Goods from Liberia."

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons by the Secretary of the Treasury of the individual identified in this notice whose property and interests in property were blocked pursuant to Executive Order 13348 of July 22, 2004, is effective December 14, 2010.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW (Treasury Annex), Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

Information about this document and additional information concerning

OFAC are available from OFAC's Web site (*http://*www.treas.gov/ofac) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On July 22, 2004, President Bush issued Executive Order 13348 ("the order" or "EO 13348"), finding that the actions and policies of former Liberian President Charles Taylor and other persons, in particular their unlawful depletion of Liberian resources and their removal from Liberia, and secreting of Liberian funds and property, undermined Liberia's transition to democracy, the orderly development of Liberia's political, administrative, and economic institutions and resources, and fueled and exacerbated other conflicts throughout West Africa. The President found that the actions, policies, and circumstances described above constituted an unusual and extraordinary threat to the foreign policy of the United States and declared a national emergency to deal with that threat.

The order included 28 persons in the Annex, which resulted in the blocking of all property or interests in property of these persons that was or thereafter came within the United States or the possession or control of U.S. persons. The order authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to designate additional persons or entities determined to meet certain criteria set forth in EO 13348.

The order also authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to determine that circumstances no longer warrant the inclusion of a person in the Annex to EO 13348 and to unblock any property or interests in property that had been blocked as a result of the person's inclusion in the Annex.

On December 14, 2010, the Director of OFAC, in consultation with the State Department, determined that circumstances no longer warrant the inclusion of the individual listed below in the Annex to EO 13448 and that the property and interests in property of the individual listed below are therefore no longer blocked pursuant to section 1(a) of EO 13448, and accordingly removed him from the list of Specially Designated Nationals and Blocked Persons.

CISSE, M. Moussa (a.k.a. KAMARA, Mamadee); DOB 24 Dec 1946; alt DOB 26 Jan 1944; Passport D–001548–99 (Liberia); alt. Passport 0058070 (Liberia); Former Chief of Presidential Protocol; Chairman, Mohammed Group of Companies; Diplomatic (individual) [LIBERIA]

Dated: December 14, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2010–31810 Filed 12–17–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to Executive Order 12978

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is publishing the names of five individuals and one entity whose property and interests in property have been unblocked pursuant to Executive Order 12978 of October 21, 1995, *Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers.*

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons ("SDN List") of the five individuals and one entity identified in this notice whose property and interests in property were blocked pursuant to Executive Order 12978 of October 21, 1995, is effective on December 14, 2010.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on demand service at (202) 622–0077.

Background

On October 21, 1995, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) ("IEEPA"), issued Executive Order 12978 (60 FR 54579, October 24, 1995) (the "Order"). In the Order, the President declared a national emergency to deal with the threat posed by significant foreign narcotics traffickers centered in Colombia and the harm that they cause in the United States and abroad.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of Treasury, in consultation with the Attorney General and Secretary of State: (a) To play a significant role in international narcotics trafficking centered in Colombia; or (b) to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order; and (3) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated pursuant to the Order.

On December 14, 2010, the Director of OFAC removed from the SDN List the five individuals and one entity listed below, whose property and interests in property were blocked pursuant to the Order:

TORRES LOZANO, Isolina, c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o COSMEPOP, Bogota, Colombia; DOB 11 Mar 1963; Cedula No. 28796392 (Colombia) (individual) [SDNT]

MUNOZ RODRIGUEZ, Soraya, c/o BLANCO PHARMA S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o RADIO UNIDAS FM S.A., Cali, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o INVERSIONES Y CONSTRUCCIONES ABC S.A., Cali, Colombia; c/o SORAYA Y HAYDEE LTDA., Cali, Colombia; c/o 2000–DODGE S.L., Madrid, Spain; c/o FUNDASER, Cali, Colombia; c/o LATINFAMRACOS S.A., Quito, Ecuador; DOB 26 Jun 1967; Cedula No. 31976822 (Colombia); Passport

AC569012 (Colombia) (individual) [SDNT]

ARBELAEZ PARDO, Amparo, c/o INTERAMERICA DE CONSTRUCCIONES S.A., Cali, Colombia; Casa No. 19, Avenida Lago, Ciudad Jardin, Cali, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o INVERSIONES ARA LTDA., Cali, Colombia; c/o VALORES MOBILIARIOS DE OCCIDENTE, Bogota, Colombia; c/o CREDIREBAJA S.A., Cali, Colombia; c/o DECAFARMA S.A., Bogota, Colombia; DOB 9 Nov 1950; alt. DOB 9 Aug 1950; Cedula No. 31218903 (Colombia); Passport AC 568973 (Colombia); alt. Passport PEDO1850 (Colombia) (individual) [SDNT]

GALEANO CUBILLOS, Mario Nelson, c/o TERAPIAS VETERINARIA LIMITADA, Bogota, Colombia; Cedula No. 17125384 (Colombia); Passport 17125384 (Colombia) (individual) [SDNT]

ROSERO ANGULO, German, c/o LA HOLANDA S.A., Cali, Colombia; Mexico; Calle 40 No. 27–59, Cali, Colombia; DOB 07 Oct 1964; POB Ipiales, Narino, Colombia; Cedula No. 16708846 (Colombia); Passport AF832289 (Colombia) (individual) [SDNT]

LA HOLANDA S.A., Calle 23C No. 3BISN–26, Cali, Colombia; NIT #805025864–5 (Colombia) [SDNT]

Dated: December 14, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2010–31804 Filed 12–17–10; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

Clinical Science Research and Development Service; Cooperative Studies Scientific Evaluation Committee; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Clinical Science Research and Development Service Cooperative Studies Scientific Evaluation Committee will be held on January 13, 2011, at The Ritz-Carlton Hotel, 1150 22nd Street, NW., Washington, DC. The meeting is scheduled to begin at 8 a.m. and end at 2:30 p.m.

The Committee advises the Chief Research and Development Officer through the Director of the Clinical Science Research and Development Service on the relevance and feasibility of proposed projects and the scientific validity and propriety of technical details, including protection of human subjects.

The session will be open to the public for approximately 30 minutes at the start of the meeting for the discussion of administrative matters and the general status of the program. The remaining portion of the meeting will be closed to the public for the Committee's review, discussion and evaluation of research and development applications.

During the closed portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research proposals and similar documents and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. As provided by section 10(d) of Public Law 92–463, as amended, closing portions of this meeting is in accordance with 5 U.S.C. 552b(c)(6) and (c)(9)(B).

Those who plan to attend should contact Dr. Grant Huang, Deputy Director, Cooperative Studies Program (125), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, or e-mail at *grant.huang@va.gov* or phone at (202) 461–1700.

Dated: December 14, 2010.

By Direction of the Secretary.

Vivian Drake,

Acting Committee Management Officer.

[FR Doc. 2010–31830 Filed 12–17–10; 8:45 am]

BILLING CODE P

Federal Register

Monday,
December 20, 2010

Part II

Regulatory Information Service Center

Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

REGULATORY INFORMATION SERVICE CENTER

Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions.

SUMMARY: The Regulatory Flexibility Act requires that agencies publish semiannual regulatory agendas in the **Federal Register** describing regulatory actions they are developing that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Executive Order 12866 ''Regulatory Planning and Review,'' signed September 30, 1993 (58 FR 51735) and Office of Management and Budget memoranda implementing section 4 of that Order establish minimum standards for agencies' agendas, including specific types of information for each entry. Section 4 of Executive Order 12866 also directs that each agency prepare, as part of its submission to the fall edition of the Unified Agenda, a regulatory plan of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. *The Regulatory Plan* (Plan) and the *Unified Agenda of Federal Regulatory and Deregulatory Actions* (Unified Agenda) help agencies fulfill these requirements.

Editions of the Unified Agenda prior to fall 2007 were printed in their entirety in the **Federal Register**. Beginning with the fall 2007 edition, the Internet is the basic means for conveying regulatory agenda information to the maximum extent legally permissible. The complete Unified Agenda for fall 2010, including *The Regulatory Plan*, is available to the public at:

http://reginfo.gov.

The fall 2010 Unified Agenda publication appearing in the **Federal Register** consists of *The Regulatory Plan* and agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules which are likely to have a significant economic impact on a substantial number of small entities and entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

The complete fall 2010 Unified Agenda contains the plans of 29 Federal agencies and the regulatory agendas for these and 29 other Federal agencies.

ADDRESSES: Regulatory Information Service Center (MI), General Services Administration, 1800 F Street NW., Suite 3039, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the Agency Contact listed for each entry.

To provide comment on or to obtain further information about this publication, contact: John C. Thomas, Executive Director, Regulatory Information Service Center (MI), General Services Administration, 1800 F Street NW., Suite 3039, Washington, DC 20405, (202) 482-7340. You may also send comments to us by e-mail at:

risc@gsa.gov

SUPPLEMENTARY INFORMATION:

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INTRODUCTION TO THE REGULATORY PLAN AND THE UNIFIED AGENDA OF FEDERAL REGULATORY AND DEREGULATORY ACTIONS

I. What Are The Regulatory Plan and the Unified Agenda?

The Regulatory Plan serves as a defining statement of the Administration's regulatory and deregulatory policies and priorities. The Plan is part of the fall edition of the Unified Agenda. Each participating agency's regulatory plan contains: (1) A narrative statement of the agency's regulatory priorities and, for most agencies, (2) a description of the most important significant regulatory and deregulatory actions that theagency reasonably expects to issue in proposed or final form during the upcoming fiscal year. This edition includes the regulatory plans of 29 agencies.

The Unified Agenda provides information about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** twice each year since 1983 and has been available online since 1995. To further the objective of using modern technology to deliver better service to the American people for lower cost, beginning with the fall 2007 edition, the Internet is the basic means for conveying regulatory agenda information to the maximum extent legally permissible. The complete Unified Agenda, including *The Regulatory Plan*, is available to the public at **http://reginfo.gov**. The online Unified Agenda offers flexible search tools and will soon offer access to the entire historic Unified Agenda database.

The fall 2010 Unified Agenda publication appearing in the **Federal Register** consists of *The Regulatory Plan* and agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act. Printed entries display only the fields required by the Regulatory Flexibility Act. Complete agenda information for those entries appears, in a uniform format, in the online Unified Agenda at:

http://reginfo.gov.

These publication formats meet the publication mandates of the Regulatory Flexibility Act and Executive Order 12866, as well as move the Agenda process toward the goal of e-Government, at a substantially reduced printing cost compared with prior editions. The current format does not reduce the amount of information available to the public, but it does limit most of the content of the Agenda to online access. The complete online edition of the Unified Agenda includes regulatory agendas from 56 Federal agencies. Agencies of the United States Congress are not included.

The following agencies have no entries identified for inclusion in the printed regulatory flexibility agenda. An asterisk (*) indicates agencies that appear in *The Regulatory Plan*. The regulatory agendas of these agencies are available to the public at:

http://reginfo.gov.

Department of Housing and Urban Development *

Department of State

Department of Veterans Affairs *

Agency for International Development

Architectural and Transportation Barriers Compliance Board

Commission on Civil Rights

Committee for Purchase From People Who Are Blind or Severely Disabled

Corporation for National and Community Service

Court Services and Offender Supervision Agency for the District of Columbia

Equal Employment Opportunity Commission *

Federal Mediation and Conciliation Service

Institute of Museum and Library Services

National Aeronautics and Space Administration *

National Archives and Records Administration *

National Endowment for the Humanities

National Science Foundation

Office of Government Ethics

Office of Management and Budget

Office of Personnel Management *

Peace Corps

Pension Benefit Guaranty Corporation *

Railroad Retirement Board

Selective Service System

Social Security Administration *

Commodity Futures Trading Commission

Consumer Product Safety Commission *

Farm Credit Administration

Federal Energy Regulatory Commission

Federal Housing Finance Agency

Federal Maritime Commission *

National Credit Union Administration

National Indian Gaming Commission *

Postal Regulatory Commission *

Recovery Accountability and Transparency Board

Surface Transportation Board

The Regulatory Information Service Center (the Center) compiles the Plan and the Unified Agenda for the Office of Information and Regulatory Affairs (OIRA), part of the Office of Management and Budget. OIRA is responsible for overseeing the Federal Government's regulatory, paperwork, and information resource management activities, including implementation of Executive Order 12866. The Center also provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The activities included in the Agenda are, in general, those that will have a regulatory action within the next 12 months. Agencies may choose to include activities that will have a longer timeframe than 12 months. Agency agendas also show actions or reviews completed or withdrawn since the last Unified Agenda. Executive Order 12866 does not require agencies to include regulations concerning military or foreign affairs functions or regulations related to agency organization, management, or personnel matters.

Agencies prepared entries for this publication to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed. *The Regulatory Plan* and the Unified Agenda do not create a legal obligation on agencies to adhere to schedules in this publication or to confine their regulatory activities to those regulations that appear within it.

II. Why Are The Regulatory Plan and the Unified Agenda Published?

The Regulatory Plan and the Unified Agenda help agencies comply with their obligations under the Regulatory Flexibility Act and various Executive orders and other statutes.

Regulatory Flexibility Act

The *Regulatory Flexibility Act* requires agencies to identify those rules that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Agencies meet that requirement by including the information in their submissions for the Unified Agenda. Agencies may also indicate those regulations that they are reviewing as part of their periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610). Executive Order 13272 entitled ''Proper Consideration of Small Entities in Agency Rulemaking,'' signed August 13, 2002 (67 FR 53461), provides additional guidance on compliance with the Act.

Executive Order 12866

Executive Order 12866 entitled ''Regulatory Planning and Review,'' signed September 30, 1993 (58 FR 51735), requires covered agencies to prepare an agenda of all regulations under development or review. The Order also requires that certain agencies prepare annually a regulatory plan of their ''most important significant regulatory actions,'' which appears as part of the fall Unified Agenda. Executive Order 13497, signed January 30, 2009 (74 FR 6113), revoked the amendments to Executive Order 12866 that were contained in Executive Order 13258 and Executive Order 13422.

Executive Order 13132

Executive Order 13132 entitled ''Federalism,'' signed August 4, 1999 (64 FR 43255), directs agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have ''federalism implications'' as defined in the Order. Under the Order, an agency that is proposing regulations with federalism implications, which either preempt State law or impose nonstatutory unfunded substantial direct compliance costs on State and local governments, must consult with State and local officials early in the process of developing the regulation. In addition, the agency must provide to the Director of the Office of Management and Budget a federalism summary impact statement for such regulations, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which those concerns have been met. As part of this effort, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions may have an effect on the various levels of government and whether those actions have federalism implications.

Unfunded Mandates Reform Act of 1995

The *Unfunded Mandates Reform Act of 1995* (Pub. L. 104-4, title II) requires agencies to prepare written assessments of the costs and benefits of significant regulatory actions ''that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more . . . in any 1 year . . . .'' The requirement does not apply to independent regulatory agencies, nor does it apply to certain subject areas excluded by section 4 of the Act. Affected agencies identify in the Unified Agenda those regulatory actions they believe are subject to title II of the Act.

Executive Order 13211

Executive Order 13211 entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' signed May 18, 2001 (66 FR 28355), directs agencies to provide, to the extent possible, information regarding the adverse effects that agency actions may have on the supply, distribution, and use of energy. Under the Order, the agency must prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for ''those matters identified as significant energy actions.'' As part of this effort, agencies may optionally include in their submissions for the Unified Agenda information on whether they have prepared or plan to prepare a Statement of Energy Effects for their regulatory actions.

Small Business Regulatory Enforcement Fairness Act

The *Small Business Regulatory Enforcement Fairness Act* (Pub. L. 104-121, title II) established a procedure for congressional review of rules (5 U.S.C. 801 *et seq.*), which defers, unless exempted, the effective date of a ''major'' rule for at least 60 days from the publication of the final rule in the **Federal Register**. The Act specifies that a rule is ''major'' if it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act. The Act provides that the Administrator of OIRA will make the final determination as to whether a rule is major.

III. How Are The Regulatory Plan and the Unified Agenda Organized?

The Regulatory Plan appears in part II of a daily edition of the **Federal Register**. The Plan is a single document beginning with an introduction, followed by a table of contents, followed by each agency's section of the Plan. Following the Plan in the **Federal Register**, as separate parts, are the regulatory flexibility agendas for each agency whose agenda includes entries for rules that are likely to have a significant economic impact on a substantial number of small entities or rules that have been selected for periodic review under section 610 of the Regulatory Flexibility Act. Each printed agenda appears as a separate part. The sections of the Plan and the parts of the Unified Agenda are

organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority (Agenda only); and independent regulatory agencies. Agencies may in turn be divided into subagencies. Each printed agency agenda has a table of contents listing the agency's printed entries that follow.

Each agency's section of the Plan contains a narrative statement of regulatory priorities and, for most agencies, a description of the agency's most important significant regulatory and deregulatory actions. Each agency's part of the Agenda contains a preamble providing information specific to that agency plus descriptions of the agency's regulatory and deregulatory actions.

The online, complete Unified Agenda contains the preambles of all participating agencies. Unlike the printed edition, the online Agenda has no fixed ordering. In the online Agenda, users can select the particular agencies whose agendas they want to see. Users have broad flexibility to specify the characteristics of the entries of interest to them by choosing the desired responses to individual data fields. To see a listing of all of an agency's entries, a user can select the agency without specifying any particular characteristics of entries.

Each entry in the Agenda is associated with one of five rulemaking stages. In the Plan, only the first three stages are applicable. Some agencies use subheadings to identify regulations that are grouped according to particular topics. The rulemaking stages are:

1. *Prerule Stage* — actions agencies will undertake to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking (NPRM) and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. *Proposed Rule Stage* — actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. *Final Rule Stage* — actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step.

4. *Long-Term Actions* — items under development but for which the agency does not expect to have a regulatory action within the 12 months after publication of this edition of the Unified Agenda. Some of the entries in this section may contain abbreviated information.

5. *Completed Actions* — actions or reviews the agency has completed or withdrawn since publishing its last agenda. This section also includes items the agency began and completed between issues of the Agenda.

A bullet (•) preceding the title of an entry indicates that the entry is appearing in the Unified Agenda for the first time.

In the printed edition, all entries are numbered sequentially from the beginning to the end of the publication. The sequence number preceding the title of each entry identifies the location of the entry in this edition. The sequence number is used as the reference in the printed table of contents. Sequence numbers are not used in the online Unified Agenda because the unique Regulation Identifier Number (RIN) is able to provide this cross-reference capability.

Editions of the Unified Agenda prior to fall 2007 contained several indexes, which identified entries with various characteristics. These included regulatory actions for which agencies believe that the Regulatory Flexibility Act may require a Regulatory Flexibility Analysis, actions selected for periodic review under section 610(c) of the Regulatory Flexibility Act, and actions that may have federalism implications as defined in Executive Order 13132 or other effects on levels of government. These indexes are no longer compiled, because users of the online Unified Agenda have the flexibility to search for entries with any combination of desired characteristics. The online edition retains the Unified Agenda's subject index based on the **Federal Register Thesaurus of Indexing Terms**. In addition, online users have the option of searching Agenda text fields for words or phrases.

IV. What Information Appears for Each Entry?

All entries in the Unified Agenda contain uniform data elements including, at a minimum, the following information:

Title of the Regulation — a brief description of the subject of the regulation. In the printed edition, the notation ''Section 610 Review'' following the title indicates that the agency has selected the rule for its periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610(c)). Some agencies have indicated completions of section 610 reviews or rulemaking actions resulting from completed section 610 reviews. In the online edition, these notations appear in a separate field.

Priority — an indication of the significance of the regulation. Agencies assign each entry to one of the following five categories of significance.

(1) Economically Significant

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more, or will adversely affect, in a material way, the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities. The definition of an ''economically significant'' rule is similar but not identical to the definition of a ''major'' rule under 5 U.S.C. 801 (Pub. L. 104-121). (See below.)

(2) Other Significant

A rulemaking that is not Economically Significant but is considered Significant by the agency. This category includes rules that the agency anticipates will be reviewed under Executive Order 12866 or rules that are a priority of the agency head. These rules may or may not be included in the agency's regulatory plan.

(3) Substantive, Nonsignificant

A rulemaking that has substantive impacts but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

(4) Routine and Frequent

A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

(5) Informational/Administrative/Other

A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the

agency's regulatory mandate but that the agency places in the Unified Agenda to inform the public of the activity.

Major — whether the rule is ''major'' under 5 U.S.C. 801 (Pub. L. 104-121) because it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act. The Act provides that the Administrator of the Office of Information and Regulatory Affairs will make the final determination as to whether a rule is major.

Unfunded Mandates — whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than $100 million in 1 year, agencies, other than independent regulatory agencies, shall prepare a written statement containing an assessment of the anticipated costs and benefits of the Federal mandate.

Legal Authority — the section(s) of the United States Code (U.S.C.) or Public Law (Pub. L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.

CFR Citation — the section(s) of the Code of Federal Regulations that will be affected by the action.

Legal Deadline — whether the action is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some other action.

Abstract — a brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, alternatives that the agency is considering to address the problem; and potential costs and benefits of the action.

Timetable — the dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date printed in the form 08/00/11 means the agency is predicting the month and year the action will take place but not the day it will occur. In some instances, agencies may indicate what the next action will be, but the date of that action is ''To Be Determined.'' ''Next Action Undetermined'' indicates the agency does not know what action it will take next.

Regulatory Flexibility Analysis Required — whether an analysis is required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the rulemaking action is likely to have a significant economic impact on a substantial number of small entities as defined by the Act.

Small Entities Affected — the types of small entities (businesses, governmental jurisdictions, or organizations) on which the rulemaking action is likely to have an impact as defined by the Regulatory Flexibility Act. Some agencies have chosen to indicate likely effects on small entities even though they believe that a Regulatory Flexibility Analysis will not be required.

Government Levels Affected — whether the action is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

International Impacts —whether the regulation is expected to have international trade and investment effects, or otherwise may be of interest to the Nation's international trading partners.

Federalism — whether the action has ''federalism implications'' as defined in Executive Order 13132. This term refers to actions ''that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Independent regulatory agencies are not required to supply this information.

Agency Contact — the name and phone number of at least one person in the agency who is knowledgeable about the rulemaking action. The agency may also provide the title, address, fax number, e-mail address, and TDD for each agency contact.

Some agencies have provided the following optional information:

RIN Information URL — the Internet address of a site that provides more information about the entry.

Public Comment URL — the Internet address of a site that will accept public comments on the entry. Alternatively, timely public comments may be submitted at the Governmentwide e-rulemaking site, **http://www.regulations.gov**.

Additional Information — any information an agency wishes to include that does not have a specific corresponding data element.

Compliance Cost to the Public — the estimated gross compliance cost of the action.

Affected Sectors — the industrial sectors that the action may most affect, either directly or indirectly. Affected Sectors are identified by North American Industry Classification System (NAICS) codes.

Energy Effects — an indication of whether the agency has prepared or plans to prepare a Statement of Energy Effects for the action, as required by Executive Order 13211 ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' signed May 18, 2001 (66 FR 28355).

Related RINs— one or more past or current RINs associated with activity related to this action, such as merged RINs, split RINs, new activity for previously completed RINs, or duplicate RINs.

Entries appearing in *The Regulatory Plan* include some or all of the following additional data elements, but will, at a minimum, include information in Statement of Need and in Anticipated Costs and Benefits:

Statement of Need — a description of the need for the regulatory action.

Summary of the Legal Basis — a description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.

Alternatives — a description of the alternatives the agency has considered or will consider as required by section 4(c)(1)(B) of Executive Order 12866.

Anticipated Costs and Benefits — a description of preliminary estimates of the anticipated costs and benefits of the action.

Risks — a description of the magnitude of the risk the action addresses, the amount by which the agency expects the action to reduce this risk, and the relation of the risk and this risk reduction effort to other risks and risk reduction efforts within the agency's jurisdiction.

V. Abbreviations

The following abbreviations appear throughout this publication:

ANPRM — An Advance Notice of Proposed Rulemaking is a preliminary notice, published in the **Federal Register**, announcing that an agency is considering a regulatory action. An agency may issue an ANPRM before it develops a detailed proposed rule. An ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR — The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the agencies of the Federal Government. The Code is divided into 50 titles, each title covering a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

EO — An Executive order is a directive from the President to Executive agencies, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

FR — The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal agencies.

FY — The Federal fiscal year runs from October 1 to September 30.

NPRM — A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum:

- A statement of the time, place, and nature of the public rulemaking proceeding;
- A reference to the legal authority under which the rule is proposed; and
- Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL (or Pub. L.) — A public law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, PL 111-5 is the fifth public law of the 111th Congress.

RFA — A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

RIN — The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in *The Regulatory Plan* and the Unified Agenda, as directed by Executive Order 12866 (section 4(b)). Additionally, OMB has asked agencies to include RINs in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register**, to make it easier for the public and agency officials to track the publication history of regulatory actions throughout their development.

Seq. No. — The sequence number identifies the location of an entry in the printed edition of the Unified Agenda. Note that a specific regulatory action will have the same RIN throughout its development but will generally have different sequence numbers if it appears in different printed editions of *The Regulatory Plan* and the Agenda. Sequence numbers are not used in the online Unified Agenda.

USC — The United States Code is a consolidation and codification of all general and permanent laws of the United States. The USC is divided into 50 titles, each title covering a broad area of Federal law.

VI. How Can Users Get Copies of the Plan and the Agenda?

Copies of the **Federal Register** issue containing the printed edition of *The Regulatory Plan* and the Unified Agenda (agency regulatory flexibility agendas) are available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954. Telephone: (202) 512-1800 or 1-866-512-1800 (toll-free).

Copies of individual agency materials may be available directly from the agency or may be found on the agency's website. Please contact the particular agency for further information.

All editions of *The Regulatory Plan* and the *Unified Agenda of Federal Regulatory and Deregulatory Actions* since fall 1995 are available in electronic form at **http://reginfo.gov**. This site currently offers flexible search tools for recent editions. Searchable access to the entire historic Unified Agenda database back to 1983 will be added to the site in time.

In accordance with regulations for the **Federal Register**, the Government Printing Office's GPO Access website contains copies of the Agendas and Regulatory Plans that have been printed in the **Federal Register**. These documents are available at:

http://www.gpoaccess.gov/ua/index.html

Dated: November 29, 2010.

John C. Thomas,

Director.

Federal Register
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The Regulatory Plan

OPEN GOVERNMENT AND EVIDENCE-BASED REGULATION

There is a close connection, even an inextricable relationship, between open government and evidence-based regulation. If regulatory choices are based on careful analysis of the evidence, and if opportunities are provided for public review and comment, we will be able to identify sensible and pragmatic approaches that are designed to promote entrepreneurship, innovation, job creation, and economic growth.

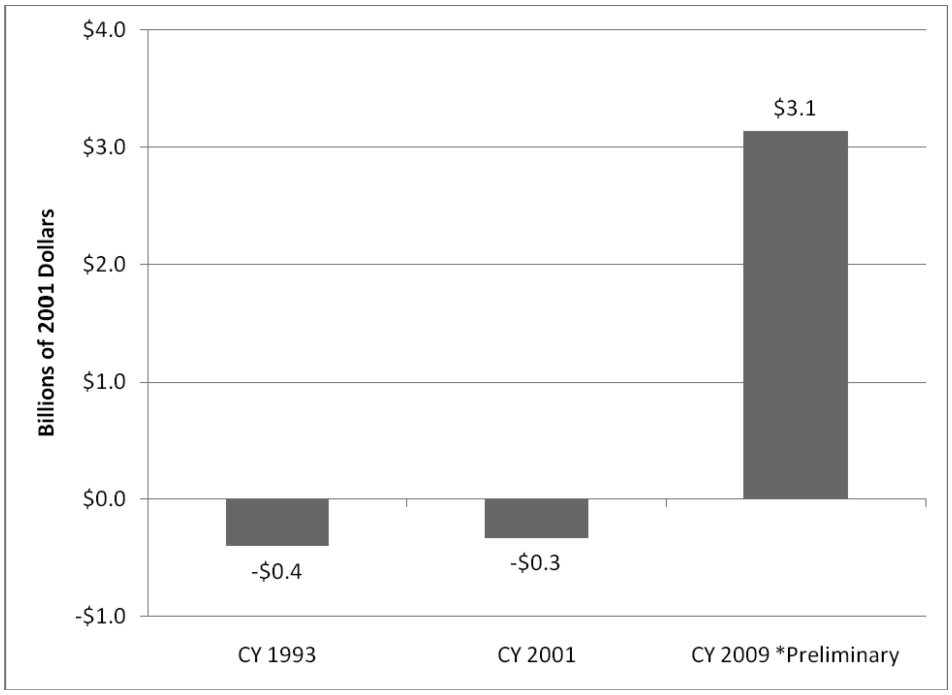
Since his inauguration, President Obama has placed a great deal of emphasis on open government. In requiring openness, the President has emphasized three separate points. First, he has stressed the importance of accountability. In his words, openness ''will strengthen our democracy and promote efficiency and effectiveness in Government.'' Second, the President has said that ''[k]nowledge is widely dispersed in society, and public officials benefit from having access to that dispersed knowledge'' and hence to ''collective expertise and wisdom.'' Third, he has emphasized the importance of providing people with information that they ''can readily find and use.'' For this reason, he has said that agencies ''should harness new technologies'' and ''solicit public feedback to identify information of greatest use to the public.''

At the same time, the Administration has been placing a great deal of emphasis on sound analysis and on ensuring a careful accounting of the anticipated consequences of regulation, including both benefits and costs. While regulation can promote vital public goods, such as protection of safety, health, and financial stability, the President has said, ''Sometimes regulation fails, and sometimes its benefits do not justify its costs.''

The word ''analysis,'' of course, includes a number of distinct but overlapping approaches, such as the cost-benefit analysis required by Executive Order 12866 and the regulatory flexibility analysis required by the Regulatory Flexibility Act. Executive Order 12866 requires agencies, to the extent permitted by law, to give careful consideration to both costs and benefits and to ensure that the benefits of regulation justify the costs. It is worth noting that, in part because of this Administration's commitment to careful analysis, the quantified benefits of final rules significantly exceeded the quantified costs for calendar year 2009-and that the net benefits of final regulations for the first year of the Obama Administration far exceeded those of the first year for the Clinton and Bush Administrations:

Figure 1: Annual Estimated Net Benefits of Major Rules

First Calendar Year of an Administration (1/21 to 12/31)



It is important to emphasize that the monetized benefits are high. We have issued rules and undertaken initiatives that are saving lives on the highways and in workplaces; reducing air and water pollution; increasing fuel economy, thus saving money while reducing pollution; making both trains and planes safer; helping students to obtain school loans and so to attend college; protecting consumers and investors against manipulation, fraud, and conflicts of interest; increasing energy efficiency, saving billions of dollars while increasing energy security; combating childhood obesity; and creating a ''race to the top'' in education.

A central goal for the upcoming period is to ensure that regulations do not impose unjustified burdens and that if the costs and burdens are significant, they are producing even more significant gains. Analysis of regulatory consequences is part of a broad effort to subject regulatory decisions to public scrutiny, with close reference to evidence, and thus improving them__not least by pointing the way toward reduced burdens and innovative solutions.

By promoting accountability, open government policies can help to track government's own performance. In that way, such policies make public officials accountable for what they do, including in the regulatory arena. Performance review matters; it is a hallmark of this Administration. Regulatory analysis is best seen as a form of performance review for Federal rules, typically done in advance (and sometimes done retrospectively).

Before acting, regulators should attempt to obtain a clear and concrete understanding of the likely consequences of what they propose to do. In its 2009 Report on the Benefits and Costs of Federal Regulations, OMB specifically underlined the relationship among careful analysis, evidence-based regulation, and open government. As the Report says, ''Indeed, careful regulatory analysis, if transparent in its assumptions and subject to public scru-

tiny, should be seen as part and parcel of open government. It helps to ensure that policies are not based on speculation and guesswork, but instead on a sense of the likely consequences of alternative courses of action. It helps to reduce the risk of insufficiently justified regulation, imposing serious burdens and costs for inadequate reason. It also helps to reduce the risk of insufficiently protective regulation, failing to go as far as proper analysis suggests. We believe that regulatory analysis should be developed and designed in a way that fits with the commitment to open government.''

With these points in mind, the Office of Information and Regulatory Affairs issued (in November 2010) an ''Agency Checklist'' for Regulatory Impact Analysis, designed to promote clarity and transparency with respect to the anticipated effects of regulation (see http://www.whitehouse.gov/sites/default/files/omb/inforeg/regpol/RIA__Checklist.pdf). The checklist emphasizes that agencies must assess costs and benefits (to the extent feasible), explore alternatives, and demonstrate the need for regulatory action. In these ways, we have been seeking to increase openness and improve our regulatory practices.

The second function of open government is very different: Openness promotes not merely accountability, but also access to widely dispersed information. The central idea is that officials often lack information that is held by numerous others, especially in the private sphere. When it is working well, open government can ensure that rules are properly informed by such information, which will often help to increase benefits, reduce costs, or identify new and creative alternatives.

Consider the rulemaking process itself. A large advantage of notice-and-comment rulemaking is that it allows agencies to offer proposals, and supporting analyses, that are subject to public scrutiny, and that can benefit from knowledge that is widely dispersed in society. On numerous occasions in the last 21 months, final rules have been significantly different from proposed rules, and public comments are a key reason.

In its 2010 Report on the Benefits and Costs of Federal Regulations, OMB specifically noted that ''some regulations have significant adverse effects on small business'' and that ''it is appropriate to take steps to create flexibility in the event that those adverse effects cannot be justified by commensurate benefits.'' To tap dispersed knowledge, OMB requested public suggestions about regulatory changes that might serve to promote economic growth, with particular reference to increasing employment, innovation, and competitiveness. More specifically, OMB sought suggestions for regulatory reforms that have significant net benefits, that might increase exports, and that might promote growth, innovation, and competitiveness for small business, perhaps through increasing flexibility. We continue to seek such suggestions in an effort to reduce the risk that regulation will impose unjustified costs or contain unjustified rigidity__and to square important regulatory goals with the interest in economic recovery.

Finally, in emphasizing the value of providing access to information that people ''can readily find and use,'' the President signaled a distinctive idea__that openness promotes learning by making data and evidence accessible. Anecdotes, speculation, and guesswork can be replaced with information and evidence. The point bears directly on the role of regulatory impact analysis. Such analysis is something that members of the public can ''find and use,'' not least because advance notice promotes predictability and avoids unfair surprise.

In its Memorandum of July 23, 2010, on the Regulatory Plan and Unified Agenda, the Office of Information and Regulatory Affairs noted:

''Executive Order 12866 identifies a number of principles that you should keep in mind, to the extent permitted by law, as you set priorities and prepare your submissions.

First, Executive Order 12866 directs agencies to propose or adopt a regulation 'only upon a reasoned determination that the benefits of the intended regulation justify the costs' (recognizing that some benefits are difficult to quantify but are nonetheless essential to consider, such as visibility in national parks).

Second, it requires each agency to 'tailor its regulations to impose the least burden on society . . . taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.'

Third, it requires agencies to 'identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as the public.'

Fourth, it directs agencies to design regulations 'in the most cost-effective manner to achieve the regulatory objective.'

Fifth, it asks each agency to 'avoid regulations that are inconsistent, incompatible, or duplicative with its other regulations or those of other Federal agencies.'

Sixth, it directs agencies to 'select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.'''

OIRA asked agencies to ''comply with these requirements as you develop your submissions.'' It also asked agencies, among other things, to ''highlight rulemakings that simplify or streamline regulations and reduce or eliminate unjustified burdens'' and to identify ''regulations that are of particular concern to small businesses.'' Before they can be finalized, the regulations on the plans that follow will, of course, be subject to a rigorous process of assessment and scrutiny, with careful attention to the foregoing principles. The list of regulations is intended to provide a public account of regulations that are under consideration; agencies are under no obligation to issue these regulations (unless some independent source of law requires them to do so).

In the current economic environment, it is especially important to see that analysis and openness are mutually reinforcing. If the two are taken together, they can help to promote important social goals, to eliminate unjustified costs, and to identify approaches that will promote entrepreneurship, innovation, job growth, and competitiveness.

DEPARTMENT OF AGRICULTURE

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
1	Wholesale Pork Reporting Program	0581–AD07	Proposed Rule Stage
2	National Dairy Promotion and Research Program; Dairy Import Assessments, DA-08-0050	0581–AC87	Final Rule Stage
3	Animal Welfare; Regulations and Standards for Birds	0579–AC02	Proposed Rule Stage
4	Plant Pest Regulations; Update of General Provisions	0579–AC98	Proposed Rule Stage
5	Importation of Live Dogs	0579–AD23	Proposed Rule Stage
6	Animal Disease Traceability	0579–AD24	Proposed Rule Stage
7	Importation of Plants for Planting; Establishing a New Category of Plants for Planting Not Authorized for Importation Pending Pest Risk Analysis	0579–AC03	Final Rule Stage
8	Multi-Family Housing (MFH) Reinvention	0575–AC13	Final Rule Stage
9	Enforcement of the Packers and Stockyards Act	0580–AB07	Final Rule Stage
10	Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation, and Energy Act of 2008	0584–AD87	Proposed Rule Stage
11	Supplemental Nutrition Assistance Program: Farm Bill of 2008 Retailer Sanctions	0584–AD88	Proposed Rule Stage
12	Fresh Fruit and Vegetable Program	0584–AD96	Proposed Rule Stage
13	Child and Adult Care Food Program: Improving Management and Program Integrity	0584–AC24	Final Rule Stage
14	Direct Certification of Children in Food Stamp Households and Certification of Homeless, Migrant, and Runaway Children for Free Meals in the NSLP, SBP, and SMP	0584–AD60	Final Rule Stage
15	Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the WIC Food Packages	0584–AD77	Final Rule Stage
16	Egg Products Inspection Regulations	0583–AC58	Proposed Rule Stage
17	New Poultry Slaughter Inspection	0583–AD32	Proposed Rule Stage
18	Mandatory Inspection of Catfish and Catfish Products	0583–AD36	Proposed Rule Stage
19	Electronic Imported Product Inspection Applications; Electronic Foreign Imported Product and Foreign Establishment Certifications; Deletion of Streamlined Inspection Procedures for Canadian Product	0583–AD39	Proposed Rule Stage
20	Electronic Export Application and Certification as a Reimbursable Service and Flexibility in the Requirements for Official Export Inspection Marks, Devices, and Certificates	0583–AD41	Proposed Rule Stage
21	Performance Standards for the Production of Processed Meat and Poultry Products; Control of Listeria Monocytogenes in Ready-To-Eat Meat and Poultry Products	0583–AC46	Final Rule Stage
22	Nutrition Labeling of Single-Ingredient Products and Ground or Chopped Meat and Poultry Products	0583–AC60	Final Rule Stage
23	Notification, Documentation, and Recordkeeping Requirements for Inspected Establishments	0583–AD34	Final Rule Stage
24	Federal-State Interstate Shipment Cooperative Inspection Program	0583–AD37	Final Rule Stage
25	Value-Added Producer Grant Program	0570–AA79	Final Rule Stage
26	Rural Broadband Access Loans and Loan Guarantees	0572–AC06	Final Rule Stage

DEPARTMENT OF COMMERCE

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
27	Designation of Critical Habitat for the North Atlantic Right Whale	0648–AY54	Proposed Rule Stage
28	Certification of Nations Whose Fishing Vessels Are Engaged in Illegal, Unreported, and Unregulated Fishing or Bycatch of Protected Living Marine Resources	0648–AV51	Final Rule Stage

DEPARTMENT OF COMMERCE (Continued)

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
29	Critical Habitat Designation for Cook Inlet Beluga Whale Under the Endangered Species Act	0648–AX50	Final Rule Stage
30	Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Amendments 20 and 21; Trawl Rationalization Program	0648–AY68	Final Rule Stage

DEPARTMENT OF DEFENSE

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
31	Voluntary Education Programs	0790–AI50	Final Rule Stage
32	TRICARE; Reimbursement of Sole Community Hospitals	0720–AB41	Proposed Rule Stage

DEPARTMENT OF EDUCATION

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
33	Title IV of the Higher Education Act of 1965, as Amended	1840–AD05	Proposed Rule Stage
34	Program Integrity: Gainful Employment—Measures	1840–AD06	Final Rule Stage

DEPARTMENT OF ENERGY

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
35	Energy Efficiency Standards for Clothes Dryers and Room Air Conditioners	1904–AA89	Proposed Rule Stage
36	Energy Efficiency Standards for Residential Central Air Conditioners and Heat Pumps	1904–AB47	Proposed Rule Stage
37	Energy Efficiency Standards for Fluorescent Lamp Ballasts	1904–AB50	Proposed Rule Stage
38	Energy Efficiency Standards for Residential Furnaces	1904–AC06	Proposed Rule Stage
39	Energy Efficiency Standards for Manufactured Housing	1904–AC11	Proposed Rule Stage
40	Energy Efficiency Standards for Residential Refrigerators, Refrigerator-Freezers, and Freezers	1904–AB79	Final Rule Stage

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
41	Modifications to the HIPAA Privacy, Security, and Enforcement Rules Under the Health Information Technology for Economic and Clinical Health Act	0991–AB57	Final Rule Stage
42	Transparency Reporting	0950–AA07	Proposed Rule Stage
43	Rate Review	0950–AA03	Final Rule Stage
44	Uniform Explanation of Benefits, Coverage Facts, and Standardized Definitions	0950–AA08	Final Rule Stage
45	Electronic Submission of Data From Studies Evaluating Human Drugs and Biologics	0910–AC52	Proposed Rule Stage
46	Unique Device Identification	0910–AG31	Proposed Rule Stage
47	Cigarette Warning Label Statements	0910–AG41	Proposed Rule Stage

DEPARTMENT OF HEALTH AND HUMAN SERVICES (Continued)

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
48	Food Labeling: Nutrition Labeling for Food Sold in Vending Machines	0910–AG56	Proposed Rule Stage
49	Food Labeling: Nutrition Labeling of Standard Menu Items in Chain Restaurants	0910–AG57	Proposed Rule Stage
50	Infant Formula: Current Good Manufacturing Practices; Quality Control Procedures; Notification Requirements; Records and Reports; and Quality Factors	0910–AF27	Final Rule Stage
51	Medical Device Reporting; Electronic Submission Requirements	0910–AF86	Final Rule Stage
52	Electronic Registration and Listing for Devices	0910–AF88	Final Rule Stage
53	Requirements for Long-Term Care Facilities: Notification of Facility Closure (CMS-3230-IFC)	0938–AQ09	Proposed Rule Stage
54	Medicare Shared Savings Program: Accountable Care Organizations (CMS-1345-P)	0938–AQ22	Proposed Rule Stage
55	Proposed Changes to the Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and FY 2012 Rates and to the Long-Term Care Hospital PPS and RY 2012 Rates (CMS-1518-P)	0938–AQ24	Proposed Rule Stage
56	Revisions to Payment Policies Under the Physician Fee Schedule and Part B for CY 2012 (CMS-1524-P)	0938–AQ25	Proposed Rule Stage
57	Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2012 (CMS-1525-P)	0938–AQ26	Proposed Rule Stage
58	Civil Money Penalties for Nursing Homes (CMS-2435-F)	0938–AQ02	Final Rule Stage
59	Designation Renewal of Head Start Grantees	0970–AC44	Proposed Rule Stage
60	Community Living Assistance Services and Supports Enrollment and Eligibility Rules Under the Affordable Care Act	0985–AA07	Proposed Rule Stage

DEPARTMENT OF HOMELAND SECURITY

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
61	Secure Handling of Ammonium Nitrate Program	1601–AA52	Proposed Rule Stage
62	Collection of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Departure; United States Visitor and Immigrant Status Indicator Technology Program (US-VISIT)	1601–AA34	Final Rule Stage
63	Asylum and Withholding Definitions	1615–AA41	Proposed Rule Stage
64	Registration Requirement for Petitioners Seeking to File H-1B Petitions on Behalf of Aliens Subject to Numerical Limitations	1615–AB71	Proposed Rule Stage
65	Exception to the Persecution Bar for Asylum, Refugee, and Temporary Protected Status, and Withholding of Removal	1615–AB89	Proposed Rule Stage
66	New Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for T Nonimmigrant Status	1615–AA59	Final Rule Stage
67	Adjustment of Status to Lawful Permanent Resident for Aliens in T and U Nonimmigrant Status	1615–AA60	Final Rule Stage
68	New Classification for Victims of Criminal Activity; Eligibility for the ''U'' Nonimmigrant Status	1615–AA67	Final Rule Stage
69	E-2 Nonimmigrant Status for Aliens in the Commonwealth of the Northern Mariana Islands With Long-Term Investor Status	1615–AB75	Final Rule Stage
70	Commonwealth of the Northern Mariana Islands Transitional Worker Classification	1615–AB76	Final Rule Stage
71	Application of Immigration Regulations to the Commonwealth of the Northern Mariana Islands	1615–AB77	Final Rule Stage
72	Outer Continental Shelf Activities	1625–AA18	Proposed Rule Stage

DEPARTMENT OF HOMELAND SECURITY (Continued)

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
73	Inspection of Towing Vessels	1625–AB06	Proposed Rule Stage
74	Assessment Framework and Organizational Restatement Regarding Preemption for Certain Regulations Issued by the Coast Guard	1625–AB32	Proposed Rule Stage
75	Updates to Maritime Security	1625–AB38	Proposed Rule Stage
76	Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters	1625–AA32	Final Rule Stage
77	Importer Security Filing and Additional Carrier Requirements	1651–AA70	Final Rule Stage
78	Changes to the Visa Waiver Program To Implement the Electronic System for Travel Authorization (ESTA) Program	1651–AA72	Final Rule Stage
79	Establishment of Global Entry Program	1651–AA73	Final Rule Stage
80	Implementation of the Guam-CNMI Visa Waiver Program	1651–AA77	Final Rule Stage
81	Large Aircraft Security Program, Other Aircraft Operator Security Program, and Airport Operator Security Program	1652–AA53	Proposed Rule Stage
82	Public Transportation and Passenger Railroads—Security Training of Employees	1652–AA55	Proposed Rule Stage
83	Freight Railroads—Security Training of Employees	1652–AA57	Proposed Rule Stage
84	Over-the-Road Buses—Security Training of Employees	1652–AA59	Proposed Rule Stage
85	Aircraft Repair Station Security	1652–AA38	Final Rule Stage
86	Air Cargo Screening	1652–AA64	Final Rule Stage
87	Continued Detention of Aliens Subject to Final Orders of Removal	1653–AA60	Proposed Rule Stage
88	Continued Detention of Aliens Subject to Final Orders of Removal	1653–AA13	Final Rule Stage
89	Extending Period for Optional Practical Training by 17 Months for F-1 Nonimmigrant Students With STEM Degrees and Expanding the CAP-GAP Relief for All F-1 Students With Pending H-1B Petitions	1653–AA56	Final Rule Stage
90	Update of FEMA's Public Assistance Regulations	1660–AA51	Proposed Rule Stage

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
91	Title I Energy Retrofit Property Improvement Loans (FR-5445)	2502–AI93	Proposed Rule Stage
92	Housing Counseling: New Program Requirements (FR-5446)	2502–AI94	Proposed Rule Stage

DEPARTMENT OF JUSTICE

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
93	National Standards to Prevent, Detect, and Respond to Prison Rape	1105–AB34	Proposed Rule Stage

DEPARTMENT OF LABOR

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
94	Construction Contractor Affirmative Action Requirements	1250–AA01	Proposed Rule Stage

DEPARTMENT OF LABOR (Continued)

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
95	Persuader Agreements: Employer and Labor Relations Consultant Reporting Under the LMRDA	1245–AA03	Proposed Rule Stage
96	Right To Know Under the Fair Labor Standards Act	1235–AA04	Proposed Rule Stage
97	Labor Certification Process and Enforcement for Temporary Employment in Occupations Other Than Agriculture or Registered Nursing in the United States (H-2B Workers)	1205–AB58	Proposed Rule Stage
98	Equal Employment Opportunity in Apprenticeship and Training, Amendment of Regulations	1205–AB59	Proposed Rule Stage
99	Lifetime Income Options for Participants and Beneficiaries in Retirement Plans	1210–AB33	Prerule Stage
100	Definition of ''Fiduciary''	1210–AB32	Proposed Rule Stage
101	Respirable Crystalline Silica Standard	1219–AB36	Proposed Rule Stage
102	Lowering Miners' Exposure to Coal Mine Dust, Including Continuous Personal Dust Monitors	1219–AB64	Proposed Rule Stage
103	Safety and Health Management Programs for Mines	1219–AB71	Proposed Rule Stage
104	Pattern of Violations	1219–AB73	Proposed Rule Stage
105	Maintenance of Incombustible Content of Rock Dust in Underground Coal Mines	1219–AB76	Proposed Rule Stage
106	Proximity Detection Systems for Underground Mines	1219–AB65	Final Rule Stage
107	Infectious Diseases	1218–AC46	Prerule Stage
108	Injury and Illness Prevention Program	1218–AC48	Prerule Stage
109	Backing Operations	1218–AC52	Prerule Stage
110	Occupational Exposure to Crystalline Silica	1218–AB70	Proposed Rule Stage
111	Occupational Injury and Illness Recording and Reporting Requirements—Modernizing OSHA's Reporting System	1218–AC49	Proposed Rule Stage
112	Hazard Communication	1218–AC20	Final Rule Stage

DEPARTMENT OF TRANSPORTATION

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
113	Enhancing Airline Passenger Protections—Part 2	2105–AD92	Final Rule Stage
114	Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers	2120–AJ00	Proposed Rule Stage
115	Air Ambulance and Commercial Helicopter Operations; Safety Initiatives and Miscellaneous Amendments	2120–AJ53	Proposed Rule Stage
116	Flight and Duty Time Limitations and Rest Requirements	2120–AJ58	Final Rule Stage
117	Carrier Safety Fitness Determination	2126–AB11	Proposed Rule Stage
118	Electronic On-Board Recorders and Hours of Service Supporting Documents	2126–AB20	Proposed Rule Stage
119	Hours of Service	2126–AB26	Proposed Rule Stage
120	Drivers of Commercial Vehicles: Restricting the Use of Cellular Phones	2126–AB29	Proposed Rule Stage
121	National Registry of Certified Medical Examiners	2126–AA97	Final Rule Stage
122	Passenger Car and Light Truck Corporate Average Fuel Economy Standards MYs 2017 and Beyond	2127–AK79	Prerule Stage
123	Federal Motor Vehicle Safety Standard No. 111, Rearview Mirrors	2127–AK43	Proposed Rule Stage

DEPARTMENT OF TRANSPORTATION (Continued)

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
124	Commercial Medium- and Heavy-Duty On-Highway Vehicles and Work Truck Fuel Efficiency Standards	2127–AK74	Proposed Rule Stage
125	Ejection Mitigation	2127–AK23	Final Rule Stage
126	Hours of Service: Passenger Train Employees	2130–AC15	Proposed Rule Stage
127	Major Capital Investment Projects	2132–AB02	Proposed Rule Stage
128	Hazardous Materials: Limiting the Use of Mobile Telephones by Highway	2137–AE65	Proposed Rule Stage
129	Hazardous Materials: Limiting the Use of Electronic Devices by Highway	2137–AE63	Final Rule Stage

ENVIRONMENTAL PROTECTION AGENCY

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
130	Review of the National Ambient Air Quality Standards for Carbon Monoxide	2060–AI43	Proposed Rule Stage
131	Review of the National Ambient Air Quality Standards for Particulate Matter	2060–AO47	Proposed Rule Stage
132	Review of the Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Oxides of Sulfur	2060–AO72	Proposed Rule Stage
133	National Emission Standards for Hazardous Air Pollutants for Coal- and Oil-Fired Electric Utility Steam Generating Units	2060–AP52	Proposed Rule Stage
134	Control of Greenhouse Gas Emissions From Medium and Heavy-Duty Vehicles	2060–AP61	Proposed Rule Stage
135	Review of the National Ambient Air Quality Standards for Lead	2060–AQ44	Proposed Rule Stage
136	NPDES Electronic Reporting Rule	2020–AA47	Proposed Rule Stage
137	Regulations To Facilitate Compliance With the Federal Insecticide, Fungicide, and Rodenticide Act by Producers of Plant-Incorporated Protectants (PIPs)	2070–AJ32	Proposed Rule Stage
138	Mercury; Regulation of Use in Certain Products	2070–AJ46	Proposed Rule Stage
139	Nanoscale Materials; Reporting Under TSCA Section 8(a)	2070–AJ54	Proposed Rule Stage
140	Nanoscale Materials; Significant New Use Rule (SNUR)	2070–AJ67	Proposed Rule Stage
141	Revisions to EPA's Rule on Protections for Subjects in Human Research Involving Pesticides	2070–AJ76	Proposed Rule Stage
142	Hazardous Waste Management Systems: Identification and Listing of Hazardous Waste: Carbon Dioxide (CO2) Injectate in Geological Sequestration Activities	2050–AG60	Proposed Rule Stage
143	Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hard Rock Mining Industry	2050–AG61	Proposed Rule Stage
144	NPDES Permit Requirements for Municipal Sanitary and Combined Sewer Collection Systems, Municipal Satellite Collection Systems, Sanitary Sewer Overflows, and Peak Excess Flow Treatment Facilities	2040–AD02	Proposed Rule Stage
145	Criteria and Standards for Cooling Water Intake Structures	2040–AE95	Proposed Rule Stage
146	Stormwater Regulations Revision To Address Discharges From Developed Sites	2040–AF13	Proposed Rule Stage

ENVIRONMENTAL PROTECTION AGENCY (Continued)

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
147	National Pollutant Discharge Elimination System (NPDES) Permit Regulations for New Dischargers and the Appropriate Use of Offsets With Regard to Water Quality Permitting	2040–AF17	Proposed Rule Stage
148	Concentrated Animal Feeding Operations (CAFO) Information Collection Request Rule	2040–AF22	Proposed Rule Stage
149	National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers	2060–AM44	Final Rule Stage
150	Transport Rule (CAIR Replacement Rule)	2060–AP50	Final Rule Stage
151	Revision to Pb Ambient Air Monitoring Requirements	2060–AP77	Final Rule Stage
152	Reconsideration of the 2008 Ozone Primary and Secondary National Ambient Air Quality Standards	2060–AP98	Final Rule Stage
153	Revisions to Motor Vehicle Fuel Economy Label	2060–AQ09	Final Rule Stage
154	National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters	2060–AQ25	Final Rule Stage
155	Lead; Clearance and Clearance Testing Requirements for the Renovation, Repair, and Painting Program	2070–AJ57	Final Rule Stage
156	Identification of Non-Hazardous Secondary Materials That Are Solid Wastes	2050–AG44	Final Rule Stage

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
157	Regulations To Implement the Equal Employment Provisions of the Americans With Disabilities Act Amendments Act	3046–AA85	Final Rule Stage

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
158	Office of Government Information Services	3095–AB62	Proposed Rule Stage
159	Declassification of National Security Information	3095–AB64	Proposed Rule Stage

SMALL BUSINESS ADMINISTRATION

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
160	Small Business Jobs Act: Multiple Award Contracts and Small Business Set-Asides	3245–AG20	Proposed Rule Stage
161	Small Business Size Regulations; (8)a Business Development/Small Disadvantaged Business Status Determination	3245–AF53	Final Rule Stage
162	Small Business Jobs Act: 504 Loan Program Debt Refinancing	3245–AG17	Final Rule Stage
163	Small Business Jobs Act: Small Business Intermediary Lending Pilot Program	3245–AG18	Final Rule Stage

SOCIAL SECURITY ADMINISTRATION

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
164	Revised Medical Criteria for Evaluating Respiratory System Disorders (859P)	0960–AF58	Proposed Rule Stage
165	Revised Medical Criteria for Evaluating Hematological Disorders (974P)	0960–AF88	Proposed Rule Stage

SOCIAL SECURITY ADMINISTRATION (Continued)

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
166	Revised Medical Criteria for Evaluating Endocrine System Disorders (436P)	0960–AD78	Final Rule Stage
167	Revised Medical Criteria for Evaluating Mental Disorders (886P)	0960–AF69	Final Rule Stage
168	Reestablishing Uniform National Disability Adjudication Provisions (3502F)	0960–AG80	Final Rule Stage
169	Amendments to Regulations Regarding Major Life-Changing Events Affecting Income-Related Monthly Adjustments Amounts to Medicare Part B Premiums (3574F)	0960–AH06	Final Rule Stage
170	Amendments to Regulations Regarding Withdrawals of Applications and Voluntary Suspension of Benefits (3573I)	0960–AH07	Final Rule Stage

CONSUMER PRODUCT SAFETY COMMISSION

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
171	Testing, Certification, and Labeling of Certain Consumer Products	3041–AC71	Final Rule Stage

NATIONAL INDIAN GAMING COMMISSION

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
172	Tribal Background Investigation Submission Requirements and Timing	3141–AA15	Proposed Rule Stage
173	Class II and Class III Minimum Internal Control Standards	3141–AA27	Proposed Rule Stage

POSTAL REGULATORY COMMISSION

Sequence Number	Title	Regulation Identifier Number	Rulemaking Stage
174	Periodic Reporting Exceptions	3211–AA06	Final Rule Stage

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DEPARTMENT OF AGRICULTURE (USDA)

Statement of Regulatory Priorities

USDA's regulatory efforts in the coming year will be focused on achieving the Department's goals identified in the Department's Strategic Plan for 2010 to 2015. To assist the country in addressing today's challenges, USDA established the following goals:

- *Assist rural communities to create prosperity so they are self-sustaining, re-populating, and economically thriving.* USDA is the leading advocate for rural America. The Department supports rural communities and enhances quality of life for rural residents by improving their economic opportunities, community infrastructure, environmental health, and the sustainability of agricultural production. The common goal is to help create thriving rural communities where people want to live and raise families, and where children have economic opportunities and a bright future.
- *Ensure that all of America's children have access to safe, nutritious, and balanced meals.* A plentiful supply of safe and nutritious food is essential to the well-being of every family and the healthy development of every child in America. USDA provides nutrition assistance to children and low-income people who need it and works to improve the healthy eating habits of all Americans, especially children. In addition, the Department safeguards the quality and wholesomeness of meat, poultry, and egg products and addresses and prevents loss and damage from pests and disease outbreaks.
- *Ensure our national forests and private working lands are conserved, restored, and made more resilient to climate change, while enhancing our water resources.* America's prosperity is inextricably linked to the health of our lands and natural resources. Forests, farms, ranches, and grasslands offer enormous environmental benefits as a source of clean air, clean and abundant water, and wildlife habitat. These lands generate economic value by supporting the vital agriculture and forestry sectors, attracting tourism and recreation visitors, sustaining green jobs, and producing ecosystem services, food, fiber, timber and non-timber products, and energy. They are also of immense social importance, enhancing rural quality of life, sustaining scenic and culturally important landscapes, and providing opportunities to engage in outdoor activity and reconnect with the land.
- *Help America promote agricultural production and biotechnology exports as America works to increase food security.* A productive agricultural sector is critical to increasing global food security. For many crops, a substantial portion of domestic production is bound for overseas markets. USDA helps American farmers and ranchers use efficient, sustainable production, biotechnology, and other emergent technologies to enhance food security around the world and find export markets for their products.

Important regulatory activities supporting the accomplishment of these goals in 2011 will include the following:

- *Rural Development and Renewable Energy.* USDA priority regulatory actions for the Rural Development mission will be to finalize regulations for bioenergy programs, including the Biorefinery Assistance Program. While USDA utilized notices of funding availability to implement many of these programs in fiscal years 2009 and 2010, regulations are required for permanent implementation. Access to affordable broadband to all rural Americans is another priority. USDA will finalize reform of its on-going broadband access program through an interim rule. Rural Development will utilize comments received from the proposed rule, address statutory changes required by the 2008 Farm Bill, and incorporate lessons learned from implementing the American Recovery and Reinvestment Act program to develop the interim rule.

  USDA will continue to promote sustainable economic opportunities to revitalize rural communities through the purchase and use of renewable, environmentally friendly biobased products through its BioPreferred Program. USDA will continue to designate groups of biobased products to receive procurement preference from Federal agencies and contractors. In addition, USDA will finalize a rule establishing the Voluntary Labeling Program for biobased products.
- *Nutrition Assistance.* As changes are made to the nutrition assistance programs, USDA will work to foster actions that expand access to program benefits, improve program integrity, improve diets and healthy eating through nutrition education, and promote physical activity consistent with the national effort to reduce obesity. In support of these activities in 2011, the Food and Nutrition Service (FNS) will propose a rule updating nutrition standards in the school meals program, finalize a rule updating the WIC food packages, and establish permanent rules for the Fresh Fruit and Vegetable Program. FNS will continue to work to implement rules that minimize participant and vendor fraud in its nutrition assistance programs.
- *Food Safety.* In the area of food safety, USDA will continue to develop science-based regulations that improve the safety of meat, poultry, and processed egg products in the least burdensome and most cost-effective manner. Regulations will be revised to address emerging food safety challenges, streamlined to remove excessively prescriptive regulations, and updated to be made consistent with hazard analysis and critical control point principles. FSIS will propose regulations to establish new systems for poultry slaughter inspection, catfish inspection, as well as a new voluntary Federal-State cooperative inspection program. To assist small entities to comply with food safety requirements, the Food Safety and Inspection Service will continue to collaborate with other USDA agencies and State partners in the enhanced small business outreach program.
- *Farm Loans and Disaster Assistance.* USDA will work to ensure a strong U.S. agricultural system through farm income support and farm loan programs. In addition, USDA will implement a new disaster assistance program authorized by the 2008 Farm Bill, the Emergency Forest Restoration Program. Regulations are also being developed for conservation loan programs intended to help producers finance the construction of conservation measures.
- *Forestry and Conservation.* USDA has completed all rulemaking for the new and reauthorized 2008 Farm Bill conservation programs and will focus on their continued implementation in 2011. In the forestry area, the Department will focus on developing a new planning rule that improves the National forests' planning process, decisionmaking, and the legal defensibility of land management plans. In 2011, the Department plans to complete the transition from the

2000 planning rule that is now in effect to the new planning rule that will update planning procedures to reflect contemporary collaborative planning practices.

- *Marketing and Regulatory Programs.* USDA will work to support the organic sector and continue regulatory work to protect the health and value of U.S. agricultural and natural resources. USDA will also implement regulations to enhance enforcement of the Packers and Stockyards Act. In addition, USDA is working with stakeholders to develop acceptable animal disease traceability standards. Regarding plant health, USDA anticipates revising the permitting of plant pests and biological control organisms. USDA will also amend regulations for importing nursery stock to better address plant health risks associated with propagative material. For the Animal Welfare Act, USDA will propose specific standards for the humane care of birds and dogs imported for resale. USDA will also implement regulations to implement dairy promotion and research provisions of the 2008 Farm Bill.

Reducing Paperwork Burden on Customers

USDA continues to make substantial progress in implementing the goal of the Paperwork Reduction Act of 1995 to reduce the burden of information collection on the public. To meet the requirements of the E-Government Act, agencies across USDA are providing electronic alternatives to their traditionally paper-based customer transactions. As a result, producers increasingly have the option to electronically file forms and all other documentation online. To facilitate the expansion of electronic government, USDA implemented an electronic authentication capability that allows customers to ''sign-on'' once and conduct business with all USDA agencies. Supporting these efforts are ongoing analyses to identify and eliminate redundant data collections and streamline collection instructions. The end result of implementing these initiatives is better service to our customers, enabling them to choose when and where to conduct business with USDA.

Major Regulatory Priorities

This document represents summary information on prospective significant regulations as called for in Executive Order 12866. The following USDA agencies are represented in this regulatory plan, along with a summary of their mission and key regulatory priorities in 2011:

Food and Nutrition Service

Mission: FNS increases food security and reduces hunger in partnership with cooperating organizations by providing children and low-income people access to food, a healthful diet, and nutrition education in a manner that supports American agriculture and inspires public confidence.

Priorities: In addition to responding to provisions of legislation authorizing and modifying Federal nutrition assistance programs, FNS' 2011 regulatory plan supports USDA's goal to ensure that all of America's children have access to safe, nutritious, and balanced meals:

- Increase Access to Nutritious Food. This objective represents FNS' efforts to improve nutrition by providing access to program benefits (food consumed at home, school meals, commodities) and distributing State administrative funds to support program operations. To advance this objective, FNS plans to publish a proposed rule to codify provisions of the 2008 Farm Bill that expand access to Supplemental Nutrition Assistance Program (SNAP) benefits and address other eligibility, certification, employment, and training issues. An interim rule implementing provisions of the Child Nutrition and WIC Reauthorization Act of 2004 to establish automatic eligibility for homeless children for school meals further supports this objective.
- Promote Healthy Diet and Physical Activity Behaviors.This objective represents FNS' efforts to improve the diets of its clients through nutrition education, support the national effort to reduce obesity by promoting healthy eating and physical activity, and to ensure that program benefits meet appropriate standards to effectively improve nutrition for program participants. In support of this objective, FNS plans to propose a rule updating the nutrition standards in the school meals programs, finalize a rule updating the WIC food packages, and establish permanent rules for the Fresh Fruit and Vegetable Program, which currently operates in a select number of schools in each State, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

Food Safety and Inspection Service

Mission: The Food Safety and Inspection Service (FSIS) is responsible for ensuring that meat, poultry, egg, and catfish products in interstate and foreign commerce are wholesome, not adulterated, and properly marked, labeled, and packaged.

Priorities: FSIS is committed to developing and issuing science-based regulations intended to ensure that meat, poultry, egg, and catfish products are wholesome and not adulterated or misbranded. FSIS regulatory actions support the objective to protect public health by ensuring that food is safe under USDA's goal to ensure access to safe food. To reduce the number of foodborne illnesses and increase program efficiencies, FSIS will continue to review its existing authorities and regulations to ensure that it can address emerging food safety challenges, to streamline excessively prescriptive regulations, and to revise or remove regulations that are inconsistent with the FSIS' hazard analysis and critical control point (HACCP) regulations. FSIS is also working with the Food and Drug Administration (FDA) to improve coordination and increase the effectiveness of inspection activities. FSIS' priority initiatives are as follows:

- Rulemakings that support initiatives of the President's Food Safety Working Group:
  - Poultry Slaughter Inspection. FSIS plans to amend poultry products inspection regulations to put in place a system in which the establishment sorts the carcasses for defects and FSIS verifies that the system is under control and producing safe and wholesome product. FSIS will propose to adopt performance standards designed to ensure that the establishments are carrying out slaughter, dressing, and chilling operations in a manner that ensures no significant growth of pathogens.
  - Revision of Egg Products Inspection Regulations. FSIS is planning to propose requirements for federally inspected egg product plants to develop and implement HACCP systems and sanitation standard operating procedures. FSIS will be proposing pathogen reduction performance standards for egg products and will remove prescriptive requirements for egg product plants.
- Initiatives that provide for disclosure or that enable economic growth. FSIS plans to issue two final rules to promote disclosure of information to the public or that provide flexibility for the adoption of new technologies and that promote economic growth:
  - Nutrition Labeling of Single-Ingredient Products and Ground or

Chopped Meat and Poultry Products. Regulations have been proposed to require nutrition information on the major cuts of single-ingredient, raw meat and poultry products to appear on the product label or at the point of purchase, unless an exemption applies. These regulations would also require nutrition labeling on all ground or chopped meat or poultry products unless an exemption applies.

– Permission to Use Air Inflation of Meat Carcasses and Parts. FSIS has proposed to revise the Federal meat inspection regulations to permit establishments that slaughter livestock or prepare livestock carcasses and parts to inflate carcasses and parts with air if they develop, implement, and maintain written controls to ensure that the procedure does not cause insanitary conditions or adulterate product. In addition, FSIS has proposed to amend its regulations to remove the approved methods for inflating livestock carcasses and parts by air and the requirement that establishments seek approval from FSIS for inflation procedures not listed in the regulations.

- Interstate Shipment of State-Inspected Meat and Poultry Products. As authorized by the 2008 Farm Bill, FSIS will issue final regulations to implement a new voluntary Federal-State cooperative inspection program under which State-inspected establishments with 25 or fewer employees would be eligible to ship meat and poultry products in interstate commerce.
- Notification, Documentation, and Recordkeeping Requirements for Inspected Establishments. As authorized by the 2008 Farm Bill, FSIS will issue final regulations that will require establishments that are subject to inspection to promptly notify FSIS when an adulterated or misbranded product received by or originating from the establishment has entered into commerce. The regulations also will require the establishments to prepare and maintain current procedures for the recall of all products produced and shipped by the establishments and to document each reassessment of the establishments' process control plans.
- Catfish Inspection. FSIS is developing regulations to implement provisions of the 2008 Farm Bill provisions that make catfish an amenable species under the Federal Meat Inspection Act (FMIA).
- Public Health Information System. To support its food safety inspection activities, FSIS is developing the Public Health Information System (PHIS). PHIS, which is user-friendly and Web-based, will replace many of FSIS' current systems and automate many business processes. To facilitate the implementation of some PHIS components, FSIS is proposing to provide for electronic export and import application and certification processes as alternatives to the current paper-based systems for these certifications.
- Other planned initiatives. FSIS plans to finalize a February 2001 proposed rule to establish food safety performance standards for all processed ready-to-eat (RTE) meat and poultry products and for partially heat-treated meat and poultry products that are not ready-to-eat. Some provisions of the proposal addressed post-lethality contamination of RTE products with Listeria monocytogenes. In June 2003, FSIS published an interim final rule requiring establishments to prevent L. monocytogenes contamination of RTE products. FSIS has carefully reviewed its economic analysis of the interim final rule and is planning to affirm the interim rule as a final rule with changes.
- FSIS small business implications. The great majority of businesses regulated by FSIS are small businesses. Some of the regulations listed above substantially affect small businesses. Some rulemakings can benefit small businesses. For example, the rule on interstate shipment of State-inspected products will open interstate markets to some small State-inspected establishments that previously could only sell their products within State boundaries.

FSIS conducts a small business outreach program that provides critical training, access to food safety experts, and information resources (such as compliance guidance and questions and answers on various topics) in forms that are uniform, easily comprehended, and consistent. FSIS collaborates in this effort with other USDA agencies and cooperating State partners. For example, FSIS makes plant owners and operators aware of loan programs, available through USDA's Rural Business and Cooperative programs, to help them in upgrading their facilities. FSIS employees meet with small and very small plant operators to learn more about their specific needs and provide joint training sessions for small and very small plants and FSIS employees.

Animal and Plant Health Inspection Service

Mission: A major part of the mission of the Animal and Plant Health Inspection Service (APHIS) is to protect the health and value of American agricultural and natural resources. APHIS regulatory actions support USDA's goal of ensuring access to safe, plentiful, and nutritious food by minimizing major diseases and pests that have the potential for reducing agricultural productivity. In support of this goal, APHIS conducts programs to prevent the introduction of exotic pests and diseases into the United States and conducts surveillance, monitoring, control, and eradication programs for pests and diseases in this country. These activities enhance agricultural productivity and competitiveness and contribute to the national economy and the public health. APHIS also conducts programs to ensure the humane handling, care, treatment, and transportation of animals under the Animal Welfare Act.

Priorities: With respect to animal health, APHIS is working with State and tribal representatives to identify a regulatory approach that will provide national traceability standards for livestock moved interstate while allowing each State and tribe the flexibility to work with their producers to develop standards that will work best for them. In the area of animal welfare, APHIS plans to propose standards for the humane handling, care, treatment, and transportation of birds covered under the Animal Welfare Act and to establish regulations to ensure the humane treatment of dogs imported into the United States for resale. Regarding plant health, APHIS anticipates publishing a proposed rule that would revise the current regulations governing the permitting of plant pests and biological control organisms. APHIS is also preparing a final rule that will conclude the first phase of its comprehensive revision to its regulations for importing nursery stock (plants for planting) to better address plant health risks associated with propagative material.

Agricultural Marketing Service

Mission: The Agricultural Marketing Service (AMS) provides marketing services to producers, manufacturers, distributors, importers, exporters, and consumers of food products. The AMS

also manages the government's food purchases, supervises food quality grading, maintains food quality standards, and supervises the Federal research and promotion programs. AMS programs contribute to the achievement of a number of objectives under the Department's goal to assist rural communities to create prosperity and the goal to ensure that all of America's children have access to safe, nutritious, and balanced meals.

Priorities:

- National Organic Program (NOP). AMS' priority items for the next year include several rulemakings that impact the organic industry. Statistics indicating rapid growth in the organic sector have highlighted issues that need to be addressed, including:
  - Origin of Livestock. On October 24, 2008, NOP published a proposed rule with request for comments on the access to pasture requirements for ruminants. This proposed rule included a change in the origin of livestock requirements for dairy animals under section 205.236 of the NOP regulations. Many of the comments received on the October 2008 proposed rule suggested that the origin of livestock issue should be pursued through a separate rulemaking from access to pasture. As a result, the proposed change to the origin of livestock requirements was not retained in the final rule on access to pasture published on February 17, 2010. AMS plans to develop a proposed rule specific to origin of livestock under the NOP during fiscal year (FY) 2011.
  - Periodic Pesticide Residue Testing. The Organic Foods Production Act (OFPA) of 1990 included language requiring certifying agents to conduct periodic residue testing of organic products produced or handled in accordance with the NOP. This requirement was meant to identify organic products that contained pesticides or other nonorganic residues in violation with the NOP or other applicable laws. In March 2010, an Office of Inspector General (OIG) audit of the NOP suggested that a legal review by the Office of General Counsel (OGC) of the current NOP regulations was needed to assess whether the existing regulations are in compliance with the residue testing requirement under OFPA. As a result of the legal opinion received by the NOP on this issue, AMS will publish a proposed rule on new periodic pesticide residue testing requirements in 2011.
  - Streamlining Enforcement Related Actions. The March 2010 Office of Inspector General (OIG) audit of the NOP raised issues related to the program's process for imposing enforcement actions. One concern was that organic producers and handlers facing revocation or suspension of their certification are able to market their products as organic during what can be a lengthy appeals process. As a result, AMS will publish a proposed rule in 2011 to streamline the NOP appeals process such that appeals are reviewed and responded to in a timely manner.
- Dairy Promotion and Research Program (Dairy Import Assessments). AMS has entered the final stage of establishing the National Dairy Promotion and Research Program. The Dairy Production Stabilization Act of 1983 (Dairy Act) authorized USDA to create a national producer program for dairy product promotion, research, and nutrition education as part of a comprehensive strategy to increase human consumption of milk and dairy products. Dairy farmers fund this self-help program through a mandatory assessment on all milk produced in the contiguous 48 States and marketed commercially. Dairy farmers administer the national program through the National Dairy Promotion and Research Board (Dairy Board).

The 2008 Farm Bill extended the program to include producers in Alaska, Hawaii, and Puerto Rico, who will pay an assessment of $0.15 per hundredweight of milk production. Imported dairy products will be assessed at $0.075 per hundredweight of fluid milk equivalent. AMS published proposed regulations establishing the program in the May 19, 2009, **Federal Register**. The proposal had a 30-day comment period. The final rule is expected to be published by the end of 2010.

Grain, Inspection, Packers and Stockyards Administration

Mission: The Grain Inspection, Packers and Stockyards Administration (GIPSA) facilitates the marketing of livestock, poultry, meat, cereals, oilseeds, and related agricultural products and promotes fair and competitive trading practices for the overall benefit of consumers and American agriculture.GIPSA's activities contribute significantly to the Department's goal to increase prosperity in rural areas by supporting a competitive agricultural system.

Priorities: GIPSA intends to issue a final rule that will define practices or conduct that are unfair, unjustly discriminatory, or deceptive, and/or that represent the making or giving of an undue or unreasonable preference or advantage, and ensure that producers and growers can fully participate in any arbitration process that may arise relating to livestock or poultry contracts. This regulation is being finalized in accordance with the authority granted to the Secretary by the Packers and Stockyards Act of 1921 and with the requirements of sections 11005 and 11006 of the 2008 Farm Bill.

Farm Service Agency

Mission: The Farm Service Agency's (FSA) mission is to equitably serve all farmers, ranchers, and agricultural partners through the delivery of effective, efficient agricultural programs, which contributes to two USDA goals. The goal of assisting rural communities in creating prosperity so they are self-sustaining, re-populating, and economically thriving; and the goal to enhance the Nation's natural resource base by assisting owners and operators of farms and ranches to conserve and enhance soil, water, and related natural resources. It supports the first goal by stabilizing farm income, providing credit to new or existing farmers and ranchers who are temporarily unable to obtain credit from commercial sources, and helping farm operations recover from the effects of disaster. FSA supports the second goal by administering several conservation programs directed toward agricultural producers. The largest program is the Conservation Reserve Program (CRP), which protects nearly 32 million acres of environmentally sensitive land.

Priorities:

- Disaster Assistance. Regulations will be issued to establish a new disaster assistance program, the Emergency Forest Restoration Program. This program requires new regulations and minor revisions to the existing related Emergency Conservation Program regulations.
- Biomass Crop Assistance Program. Final regulations were published to complete implementation of the Biomass Crop Assistance Program. This program supports the Administration's energy initiative to accelerate the investment in and production of biofuels. The program will provide financial assistance to

agricultural and forest land owners and operators to establish and produce eligible crops, including woody biomass, for conversion to bioenergy, and the collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility.

- Farm Loan Programs. FSA will develop and issue regulations to amend programs for farm operating loans, down payment loans, and emergency loans to include socially disadvantaged farmers, increase loan limits, loan size, funding targets, interest rates, and graduating borrowers to commercial credit. In addition, the regulations will establish a new direct and guaranteed loan program to assist farmers in implementing conservation practices.

Forest Service

Mission: The mission of the Forest Service is to sustain the health, productivity, and diversity of the Nation's forests and rangelands to meet the needs of present and future generations. This includes protecting and managing National Forest System lands, providing technical and financial assistance to States, communities, and private forest landowners, and developing and providing scientific and technical assistance and scientific exchanges in support of international forest and range conservation. Forest Service regulatory priorities support the accomplishment of the Department's goal to ensure our National forests are conserved, restored, and made more resilient to climate change, while enhancing our water resources.

Priorities:

- Land Management Planning Rule. The Forest Service is required to issue rulemaking for National Forest System land management planning under 16 U.S.C. 1604. The first planning rule was adopted in 1979 and amended in 1982. The Forest Service published a new planning rule on April 21, 2008 (73 FR 21468). On June 30, 2009, the United States District Court for the Northern District of California invalidated the Forest Service's 2008 Planning Rule published at 36 CFR 219 based on violations of NEPA and ESA in the rulemaking process. The District Court vacated the 2008 rule, enjoined the USDA from further implementing it, and remanded it to the USDA for further proceedings. USDA has determined that the 2000 planning rule is now in effect, including its transition provisions as amended in 2002 and 2003, and as clarified by interpretative rules issued in 2001 and 2004, which allows the use of the provisions of the 1982 planning rule to amend or revise plans. The Forest Service is now in the 2000 planning rule transition period. The Forest Service is proposing a new planning rule. In so doing, the Forest Service plans to correct deficiencies that have been identified over two decades of forest planning and update planning procedures to reflect contemporary collaborative planning practices.
- Community Forest and Open Space Conservation Program. The purpose of the Community Forest Program is to achieve community benefits through financial assistance grants to local governments, tribal governments, and nonprofit organizations to establish community forests by acquiring and protecting private forestlands. Community forest benefits are specified in the authorizing statute and include economic benefits from sustainable forest management, natural resource conservation, forest-based educational programs, model forest stewardship activities, and recreational opportunities.
- Closure of NFS Lands to Protect Privacy of Tribal Activities. There is currently no provision for a special closure of NFS lands to protect the privacy of tribal activities for traditional and cultural purposes. The Forest Service will amend its regulations to allow special closure of NFS land to protect the privacy of tribal activities for traditional and cultural purposes.

Rural Business-Cooperative Service

Mission: Promoting a dynamic business environment in rural America is the goal of the Rural Business-Cooperative Service (RBS). Business Programs works in partnership with the private sector and the community-based organizations to provide financial assistance and business planning, and helps fund projects that create or preserve quality jobs and/or promote a clean rural environment. The financial resources are often leveraged with those of other public and private credit source lenders to meet business and credit needs in under-served areas. Recipients of these programs may include individuals, corporations, partnerships, cooperatives, public bodies, nonprofit corporations, Indian tribes, and private companies. The mission of Cooperative Programs of RBS is to promote understanding and use of the cooperative form of business as a viable organizational option for marketing and distributing agricultural products.

Priorities: In support of the Department's goal to increase the prosperity of rural communities, RBS regulatory priorities will facilitate sustainable renewable energy development and enhance the opportunities necessary for rural families to thrive economically. RBS's priority will be to publish regulations to fully implement the 2008 Farm Bill. This includes promulgating regulations for the Biorefinery Assistance Program (sec. 9003), the Repowering Assistance Program (sec. 9004), the Bioenergy Program for Advanced Biofuels (sec. 9005), and the Rural Microentrepreneur Assistance Program (RMAP). RBS has been administering sections 9003, 9004, and 9005 through the use of Notices of Funds Availability and Notices of Contract Proposals. Revisions to the Rural Energy for America Program (sec. 9007) will be made to incorporate Energy Audits and Renewable Energy Development Assistance and Feasibility Studies for Rural Energy Systems as eligible grant purposes, as well as other Farm Bill initiatives and various technical changes throughout the rule. In addition, revisions to the Business and Industry Guaranteed Loan Program will be made to implement 2008 Farm Bill provisions and other program initiatives. These rules will minimize program complexity and burden on the public while enhancing program delivery and RBS oversight.

Rural Utilities Service

Mission: The mission of the Rural Utilities Service is to improve the quality of life in rural America by providing investment capital for the deployment of critical rural utilities telecommunications, electric, and water and waste disposal infrastructure. Financial assistance is provided to rural utilities, municipalities, commercial corporations, limited liability companies, public utility districts, Indian tribes, and cooperative, nonprofit, limited-dividend, or mutual associations. The public-private partnership, which is forged between the Rural Utilities Service (RUS) and these industries, results in billions of dollars in rural infrastructure development and creates thousands of jobs for the American economy.

Priorities: RUS' regulatory priorities will be to achieve the President's goal to bring affordable broadband to all rural Americans. To accomplish this, RUS will continue to improve the Broadband Program established by the 2002 Farm

Bill. The 2002 Farm Bill authorized RUS to approve loans and loan guarantees for the costs of construction, improvement, and acquisition of facilities and equipment for broadband service in eligible rural communities. The 2008 Farm Bill is significantly changing the statutory requirements of the Broadband Loan Program. As such, RUS will be issuing an interim rule to implement the statutory changes and will request comments on the section of the rule that was not part of the proposed rule that was published in May 2007. In addition, the regulations will be issued to implement provisions of the American Recovery and Reinvestment Act that expanded RUS's authority to make loans and provided new authority to make grants to facilitate broadband deployment in rural areas.

Departmental Management

Mission: Departmental Management's mission is to provide management leadership to ensure that USDA administrative programs, policies, advice, and counsel meet the needs of USDA program organizations, consistent with laws and mandates, and provide safe and efficient facilities and services to customers.

Priorities: In support of the Department's goal to increase rural prosperity, USDA's Departmental Management will finalize regulations establishing a program allowing manufacturers and vendors of eligible products made from biobased feedstocks to display the label on their packaging and marketing materials. Once completed, this regulation will implement a section of the 2008 Farm Bill and will promote alternative uses of agriculture and forest materials.

Aggregate Costs and Benefits

USDA will ensure that its regulations provide benefits that exceed costs, but is unable to provide an estimate of the aggregated impacts of its regulations. Problems with aggregation arise due to differing baselines, data gaps, and inconsistencies in methodology and the type of regulatory costs and benefits considered. In addition, aggregation omits benefits and costs that cannot be reliably quantified, such as improved health resulting from increased access to more nutritious foods, higher levels of food safety, and increased quality of life derived from investments in rural infrastructure. Some benefits and costs associated with rules listed in the regulatory plan cannot currently be quantified as the rules are still being formulated. For 2011, the Department's focus will be to implement the changes to programs in such a way as to provide benefits while minimizing program complexity and regulatory burden for program participants.

USDA—Agricultural Marketing Service (AMS)

PROPOSED RULE STAGE

1. ● WHOLESALE PORK REPORTING PROGRAM

Priority:

Other Significant

Legal Authority:

7 USC 1635 to 1636

CFR Citation:

7 CFR 59

Legal Deadline:

Final, Statutory, March 28, 2012.

With the passage of S. 3656, the Mandatory Price Reporting Act of 2010, the Secretary of Agriculture is required to amend chapter 3 of subtitle B of the Agricultural Marketing Act of 1946 by adding a new section for mandatory reporting of wholesale pork cuts. To make these amendments, the Secretary was directed to promulgate a final rule no later than one and a half years after the date of the enactment of the Act. Accordingly, a final rule will be promulgated by March 28, 2012.

Abstract:

On September 15, 2010, Congress passed the Mandatory Price Reporting Act of 2010 reauthorizing Livestock Mandatory Reporting for 5 years and adding a provision for mandatory reporting of wholesale pork cuts. The Act was signed by the President on September 28, 2010. Congress directed the Secretary to engage in negotiated rulemaking to make required regulatory changes for mandatory wholesale pork reporting. Further, Congress required that the negotiated rulemaking committee include representatives from (i) organizations representing swine producers; (ii) organizations representing packers of pork, processors of pork, retailers of pork, and buyers of wholesale pork; (iii) the Department of Agriculture; and (iv) among interested parties that participate in swine or pork production.

Statement of Need:

Implementation of mandatory pork reporting is required by Congress. Congress delegated responsibility to the Secretary for determining what information is necessary and appropriate. The Food, Conservation, and Energy Act of 2008 (Pub. L. 110-234) directed the Secretary to conduct a study to determine advantages, drawbacks, and potential implementation issues associated with adopting mandatory wholesale pork reporting. The report from this study generally concluded that voluntary wholesale pork price reporting is thin and becoming thinner, and some degree of support for moving to mandatory price reporting exists at every segment of the industry interviewed. The report was delivered to Congress on March 25, 2010.

Summary of Legal Basis:

Livestock Mandatory Reporting is authorized under the Agricultural Marketing Act (7 U.S.C. 1635 to 1636). The Livestock and Seed Program of USDA's Agricultural Marketing Service has day-to-day responsibility for collecting and disseminating LMR data.

Alternatives:

There are no alternatives, as this rulemaking is a matter of law based on the Mandatory Price Reporting Act of 2010.

Anticipated Cost and Benefits:

Estimation of costs will follow the previous methodology used in earlier Livestock Mandatory Reporting rulemaking. The focus of the cost estimation is the burden placed on reporting companies in providing pork marketing data to the Livestock and Seed Program. Previous rulemaking cost estimates of boxed beef reporting of similar data found the burden to be an annual total of 65 hours in additional reporting requirements per firm. Because no official USDA grade standards are used in the marketing of pork, and fewer cutting styles, the burden for pork reporting firms in comparison with beef reporting firms could be lower. However, the impact is not truly known at this stage.

Timetable:

Action	Date	FR Cite
Notice	12/00/10	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—AMS

FINAL RULE STAGE

2. NATIONAL DAIRY PROMOTION AND RESEARCH PROGRAM; DAIRY IMPORT ASSESSMENTS, DA–08–0050

Priority:

Other Significant

Legal Authority:

7 USC 4501 to 4514; 7 USC 7401

CFR Citation:

7 CFR 1150

Legal Deadline:

Final, Statutory, September 19, 2008, Assessments on imported dairy products must be implemented by deadline.

With the passage of section 1507 in the 2008 Farm Bill, the Dairy Act was amended to apply certain assessments to Alaska, Hawaii, the District of Columbia, and the Commonwealth of Puerto Rico. The 2008 Farm Bill authorized the Secretary to issue regulations to implement the mandatory dairy import assessment without providing a notice and comment period. However, due to the interest of affected parties, a notice and comment period was provided.

Abstract:

The Dairy Act authorizes the Order for dairy product promotion, research, and nutrition education as part of a comprehensive strategy to increase human consumption of milk and dairy products and to reduce milk surpluses. The program functions to strengthen the dairy industry's position in the marketplace by maintaining and expanding domestic and foreign consumption of fluid milk and dairy products. Amendments to the Order are pursuant to the 2002 and 2008 Farm Bills. The 2002 Farm Bill mandates that the Order be amended to implement an assessment on imported dairy products to fund promotion and research. The 2008 Farm Bill specifies a mandatory assessment rate of 7.5-cent per hundredweight of milk, or equivalent thereof, on dairy products imported into the United States. Additionally, in accordance with the 2008 Farm Bill, the term ''United States'' is the Dairy Act is amended to mean all States, the District of Columbia, and the Commonwealth of Puerto Rico. Producers in these areas will be assessed 15 cents per hundredweight for all milk produced and marketed.

Statement of Need:

In response to the May 19, 2009 (74 FR 23359), proposed rule (National Dairy Promotion and Research Program; Proposed Rule on Amendments to the Order), AMS received 189 timely comments from consumers, dairy producers, foreign governments, importers, exporters, manufacturers, members of Congress, trade associations, and other interested parties.

The comments covered a wide range of topics, including 39 in opposition to the proposal and 150 in support of the proposal. Opponents of the proposal expressed concern over the lack of a referendum requirement among those affected; default assessment rates; lack of ability to no longer promote State-branded dairy products; lack of importer organizations eligible to become a Qualified Program; disputed the cost-benefit analysis for importers and producers; and cited unreasonable importer paperwork and record keeping burdens.

Proponents of the proposal expressed support for an expedited implementation of the dairy import assessment; cited the enhanced benefits both domestic producers and importers will receive as a result of implementation; recommended new Harmonized Tariff Schedule codes; use of a default assessment rate; recommended regular reporting of the products and assessments on imports; and all thresholds for compliance with U.S. trade obligations have been met.

AMS plans to issue a final rule implementing the dairy import assessment in the near future. In response to the comments received and after consultation with USTR, AMS is addressing, in the final rule, referenda, alternative assessment rates, and compliance and enforcement activity. All remaining changes are miscellaneous and minor in nature in order to clarify regulatory text.

Summary of Legal Basis:

The National Dairy Promotion and Research Program (National Program) is authorized under the authorized under the provisions of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501 to 4514), and the Dairy Promotion and Research Order (7 CFR part 1150). The Dairy Programs unit of USDA's Agricultural Marketing Service has day—to—day oversight responsibilities for the National Program.

Alternatives:

There are no alternatives, as this rulemaking is a matter of law based on the 2002 and 2008 Farm Bills.

Anticipated Cost and Benefits:

Assessments to dairy producers under the Order are relatively small compared to producer revenue. If dairy producers in Alaska, Hawaii, the District of Columbia, and the Commonwealth of Puerto Rico had paid assessments of $0.15 per hundredweight of milk marketed in 2007, it is estimated that $1.1 million would have been paid. This is about 0.6 percent of the $192 million total value of milk produced and marketed in these areas.

Benefits to producers in these areas are assumed to be similar to those benefits received by producers of other U.S. geographical regions. Cornell University has conducted an independent economic analysis of the Program that is included in the annual report to Congress. Cornell determined that from 1998 through 2007, each dollar invested in generic dairy marketing by dairy farmers during the period would return between $5.52 and $5.94, on average, in net revenue to farmers.

Assessments collected from importers under the National Program will be relatively small compared to the value of dairy imports. If importers had been assessed $0.075 per hundredweight, or equivalent thereof, for imported dairy products in 2007 as specified in this rule, it is estimated that less than $6.1 million would have been paid. This is about 0.3 percent of the $2.4 billion value of the dairy products imported in 2007.

Risks:

If the amendments are not implemented, USDA would be in violation of the 2002 and 2008 Farm Bills.

Timetable:

Action	Date	FR Cite
NPRM	05/19/09	74 FR 23359

Action	Date	FR Cite
NPRM Comment Period End	06/18/09	
Final Action	03/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

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USDA—Animal and Plant Health Inspection Service (APHIS)

PROPOSED RULE STAGE

3. ANIMAL WELFARE; REGULATIONS AND STANDARDS FOR BIRDS

Priority:

Other Significant

Legal Authority:

7 USC 2131 to 2159

CFR Citation:

9 CFR 1 to 3

Legal Deadline:

None

Abstract:

APHIS intends to establish standards for the humane handling, care, treatment, and transportation of birds other than birds bred for use in research.

Statement of Need:

The Farm Security and Rural Investment Act of 2002 amended the definition of animal in the Animal Welfare Act (AWA) by specifically excluding birds, rats of the genus Rattus, and mice of the genus Mus, bred for use in research. While the definition of animal in the regulations contained in 9 CFR part 1 has excluded rats of the genus Rattus and mice of the genus Mus bred for use in research, that definition has also excluded all birds (i.e., not just those birds bred for use in research). In line with this change to the definition of animal in the AWA, APHIS intends to establish standards in 9 CFR part 3 for the humane handling, care, treatment, and transportation of birds other than those birds bred for use in research and to revise the regulations in 9 CFR parts 1 and 2 to make them applicable to birds.

Summary of Legal Basis:

The Animal Welfare Act (AWA) authorizes the Secretary of Agriculture to promulgate standards and other requirements governing the humane handling, care, treatment, and transportation of certain animals by dealers, research facilities, exhibitors, operators of auction sales, and carriers and immediate handlers. Animals covered by the AWA include birds that are not bred for use in research.

Alternatives:

To be identified.

Anticipated Cost and Benefits:

To be determined.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	08/00/11	
NPRM Comment Period End	11/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Additional Information:

Additional information about APHIS and its programs is available on the Internet at http://www.aphis.usda.gov.

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USDA—APHIS

4. PLANT PEST REGULATIONS; UPDATE OF GENERAL PROVISIONS

Priority:

Other Significant

Legal Authority:

7 USC 450; 7 USC 2260; 7 USC 7701 to 7772; 7 USC 7781 to 7786; 7 USC 8301 to 8817; 19 USC 136; 21 USC 111; 21 USC 114a; 21 USC 136 and 136a; 31 USC 9701; 42 USC 4331 to 4332

CFR Citation:

7 CFR 318 to 319; 7 CFR 330; 7 CFR 352

Legal Deadline:

None

Abstract:

We are proposing to revise our regulations regarding the movement of plant pests. We are proposing to regulate the movement of not only plant pests, but also biological control organisms and associated articles. We are proposing risk-based criteria regarding the movement of biological control organisms, and are proposing to exempt certain types of plant pests from permitting requirements for their interstate movement and movement for environmental release. We are also proposing to revise our regulations regarding the movement of soil, and to establish regulations governing the biocontainment facilities in which plant pests, biological control organisms, and associated articles are held. This proposed rule replaces a previously published proposed rule, which we are withdrawing as part of this document. This proposal would clarify the factors that would be considered when assessing the risks associated with the movement of certain organisms, facilitate the movement of regulated organisms and articles in a manner that also protects U.S. agriculture, and address gaps in the current regulations.

Statement of Need:

APHIS is preparing a proposed rule to revise its regulations regarding the movement of plant pests. The revised regulations would address the importation and interstate movement of plant pests, biological control organisms, and associated articles and the release into the environment of biological control organisms. The revision would also address the movement of soil and establish regulations governing the biocontainment facilities in which

plant pests, biological control organisms, and associated articles are held. This proposal would clarify the factors that would be considered when assessing the risks associated with the movement of certain organisms, facilitate the movement of regulated organisms and articles in a manner that also protects U.S. agriculture, and address gaps in the current regulations.

Summary of Legal Basis:

Under section 411(a) of the Plant Protection Act (PPA), no person shall import, enter, export, or move in interstate commerce any plant pest, unless the importation, entry, exportation, or movement is authorized under a general or specific permit and in accordance with such regulations as the Secretary of Agriculture may issue to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

Under section 412 of the PPA, the Secretary may restrict the importation or movement in interstate commerce of biological control organisms by requiring the organisms to be accompanied by a permit authorizing such movement and by subjecting the organisms to quarantine conditions or other remedial measures deemed necessary to prevent the spread of plant pests or noxious weeds. That same section of the PPA also gives the Secretary explicit authority to regulate the movement of associated articles.

Alternatives:

The alternatives we considered were taking no action at this time or implementing a comprehensive risk reduction plan. This latter alternative would be characterized as a broad risk mitigation strategy that could involve various options such as increased inspection, regulations specific to a certain organism or group of related organisms, or extensive biocontainment requirements.

We decided against the first alternative because leaving the regulations unchanged would not address the needs identified immediately above. We decided against the latter alternative, because available scientific information, personnel, and resources suggest that it would be impracticable at this time.

Anticipated Cost and Benefits:

Undetermined at this time.

Risks:

Unless we issue such a proposal, the regulations will not provide a clear protocol for obtaining permits that authorize the movement and environmental release of biological control organisms. This, in turn, could impede research to explore biological control options for various plant pests and noxious weeds known to exist within the United States, and could indirectly lead to the further dissemination of such pests and weeds.

Moreover, unless we revise the soil regulations, certain provisions in the regulations will not adequately address the risk to plants, plant parts, and plant products within the United States that such soil might present.

Timetable:

Action	Date	FR Cite
Notice of Intent to Prepare an Environmental Impact Statement	10/20/09	74 FR 53673
Notice Comment Period End	11/19/09	
NPRM	01/00/11	
NPRM Comment Period End	03/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

Local, State, Tribal

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information:

Additional information about APHIS and its programs is available on the Internet at http://www.aphis.usda.gov.

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RIN: 0579–AC98

USDA—APHIS

5. ● IMPORTATION OF LIVE DOGS

Priority:

Other Significant

Legal Authority:

7 USC 2148

CFR Citation:

9 CFR 1 and 2

Legal Deadline:

None

Abstract:

This rulemaking would amend the Animal Welfare Act (AWA) regulations to regulate dogs imported for resale as required by a recent amendment to the AWA. Importation of dogs for resale would be prohibited unless the dogs are in good health, have all necessary vaccinations, and are 6 months of age or older. This proposal will also reflect the exemptions provided in the amendment to the AWA for dogs imported for research purposes or veterinary treatment and for dogs legally imported into the State of Hawaii from the British Isles, Australia, Guam, or New Zealand.

Statement of Need:

The Food, Conservation, and Energy Act of 2008 mandates that the Secretary of Agriculture promulgate regulations to implement and enforce new provisions of the Animal Welfare Act (AWA) regarding the importation of dogs for resale. In line with the changes to the AWA, APHIS intends to amend the regulations in 9 CFR parts 1 and 2 to regulate the importation of dogs for resale.

Summary of Legal Basis:

The Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, signed into law on June 18, 2008) added a new section to the Animal Welfare Act (7 U.S.C. 2147) to restrict the importation of live dogs for resale. As amended, the AWA now prohibits the importation of dogs into the United States for resale unless the Secretary of Agriculture determines that the dogs are in good health, have received all necessary vaccinations, and are at least 6 months of age. Exceptions are provided for dogs imported for research purposes or veterinary treatment. An exception to the 6-month age requirement is also provided for dogs that are lawfully imported into Hawaii for resale purposes from the British Isles, Australia, Guam, or New Zealand in compliance with the applicable regulations of Hawaii, provided the dogs are vaccinated, are in good health, and are not transported out of Hawaii for resale purposes at less than 6 months of age.

Alternatives:

To be identified.

Anticipated Cost and Benefits:

To be determined.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	
NPRM Comment Period End	02/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

Additional Information:

Additional information about APHIS and its programs is available on the Internet at http://www.aphis.usda.gov.

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RIN: 0579–AD23

USDA—APHIS

6. • ANIMAL DISEASE TRACEABILITY

Priority:

Other Significant

Legal Authority:

7 USC 8305

CFR Citation:

9 CFR 90

Legal Deadline:

None

Abstract:

This rulemaking would establish a new part in the Code of Federal Regulations containing general identification and documentation requirements for livestock moving interstate. The purpose of the new regulations is to improve our ability to trace livestock in the event that disease is found. The regulations will provide national traceability standards for livestock moved interstate and allow each State and tribe the flexibility to develop ways of meeting the standards that will work best for them.

Statement of Need:

Preventing and controlling animal disease is the cornerstone of protecting American animal agriculture. While ranchers and farmers work hard to protect their animals and their livelihoods, there is never a guarantee that their animals will be spared from disease. To support their efforts, USDA has enacted regulations to prevent, control, and eradicate disease, and to increase foreign and domestic confidence in the safety of animals and animal products. Traceability helps give that reassurance. Traceability does not prevent disease, but knowing where diseased and at-risk animals are, where they have been, and when, is indispensable in emergency response and in ongoing disease programs. The primary objectives of these proposed regulations are to improve our ability to trace livestock in the event that disease is found and to provide national standards to ensure the smooth flow of livestock in interstate commerce, while also allowing States and tribes the flexibility to develop systems for tracing animals within their State and tribal lands that work best for them.

Summary of Legal Basis:

Under the Animal Health Protection Act (7 U.S.C. 8301 et seq.), the Secretary of Agriculture may prohibit or restrict the interstate movement of any animal to prevent the introduction or dissemination of any pest or disease of livestock, and may carry out operations and measures to detect, control, or eradicate any pest or disease of livestock. The Secretary may promulgate such regulations as may be necessary to carry out the Act.

Alternatives:

As part of its ongoing efforts to safeguard animal health, APHIS initiated implementation of the National Animal Identification System (NAIS) in 2004. More recently, the Agency launched an effort to assess the level of acceptance of NAIS through meetings with the Secretary, listening sessions in 14 cities, and public comments. Although there was some support for NAIS, the vast majority of participants were highly critical of the program and of USDA's implementation efforts. The feedback revealed that NAIS has become a barrier to achieving meaningful animal disease traceability in the United States in partnership with America's producers.

The option we are proposing pertains strictly to interstate movement and gives States and tribes the flexibility to identify and implement the traceability approaches that work best for them.

Anticipated Cost and Benefits:

A workable and effective animal traceability system would enhance animal health programs, leading to more secure market access and other societal gains. Traceability can reduce the cost of disease outbreaks, minimizing losses to producers and industries by enabling current and previous locations of potentially exposed animals to be readily identified. Trade benefits can include increased competitiveness in global markets generally, and when outbreaks do occur, the mitigation of export market losses through regionalization. Markets benefit through more efficient and timely epidemiological investigation of animal health issues. Other societal benefits include improved animal welfare during natural disasters.

Costs of an animal traceability system would include those for tags and tagging and would vary, depending on the method of identification chosen (e.g., metal tags vs. microchip implants). Costs are expected to vary by both type of operation and whether traceability would be by individual animal or by lot or group. Per head costs of traceability programs for the principal farm animals are estimated to be highest for cattle operations, followed by sheep, swine, and poultry operations. Larger operations would likely reap economies of scale, that is, incur lower costs per head than smaller operations. However, there will be exemptions for small producers who raise animals to feed themselves, their families, and their immediate neighbors. In addition, only operations moving livestock interstate would be required to comply with the regulations.

Risks:

This rulemaking is being undertaken to address the animal health risks posed by gaps in the existing regulations concerning identification of livestock being moved interstate. The current lack of a comprehensive animal traceability program is impairing our ability to trace animals that may be affected with disease.

Timetable:

Action	Date	FR Cite
NPRM	04/00/11	
NPRM Comment Period End	06/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

State, Tribal

Additional Information:

Additional information about APHIS and its programs is available on the Internet at http://www.aphis.usda.gov.

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RIN: 0579–AD24

USDA—APHIS

FINAL RULE STAGE

7. IMPORTATION OF PLANTS FOR PLANTING; ESTABLISHING A NEW CATEGORY OF PLANTS FOR PLANTING NOT AUTHORIZED FOR IMPORTATION PENDING PEST RISK ANALYSIS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Priority:

Other Significant

Legal Authority:

7 USC 450; 7 USC 7701 to 7772; 7 USC 7781 to 7786; 21 USC 136 and 136a

CFR Citation:

7 CFR 319

Legal Deadline:

None

Abstract:

This rulemaking will amend the regulations to establish a new category of regulated articles in the regulations governing the importation of nursery stock, also known as plants for planting. This category will list taxa of plants for planting whose importation is not authorized pending pest risk analysis. If scientific evidence indicates that a taxon of plants for planting is a quarantine pest or a host of a quarantine pest, we will publish a notice that will announce our determination that the taxon is a quarantine pest or a host of a quarantine pest, cite the scientific evidence we considered in making this determination, and give the public an opportunity to comment on our determination. If we receive no comments that change our determination, the taxon will subsequently be added to the new category. We will allow any person to petition for a pest risk analysis to be conducted for a taxon that has been added to the new category. After the pest risk analysis is completed, we will remove the taxon from the category and allow its importation subject to general requirements, allow its importation subject to specific restrictions, or prohibit its importation. We will consider applications for permits to import small quantities of germplasm from taxa whose importation is not authorized pending pest risk analysis, for experimental or scientific purposes under controlled conditions. This new category will allow us to take prompt action on evidence that the importation of a taxon of plants for planting poses a risk while continuing to allow for public participation in the process.

Statement of Need:

APHIS typically relies on inspection at a Federal plant inspection station or port of entry to mitigate the risks of pest introduction associated with the importation of plants for planting. Importation of plants for planting is further restricted or prohibited only if there is specific evidence that such importation could introduce a quarantine pest into the United States. Most of the taxa of plants for planting currently being imported have not been thoroughly studied to determine whether their importation presents a risk of introducing a quarantine pest into the United States. The volume and the number of types of plants for planting have increased dramatically in recent years, and there are several problems associated with gathering data on what plants for planting are being imported and on the risks such importation presents. In addition, quarantine pests that enter the United States via the importation of plants for planting pose a particularly high risk of becoming established within the United States. The current regulations need to be amended to better address these risks.

Summary of Legal Basis:

The Secretary of Agriculture may prohibit or restrict the importation or entry of any plant if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States of a plant pest or noxious weed (7 U.S.C. 7712).

Alternatives:

APHIS has identified one alternative to the approach we are considering. We could prohibit the importation of all nursery stock pending risk evaluation, approval, and notice-and-comment rulemaking, similar to APHIS' approach to regulating imported fruits and vegetables. This approach would lead to a major interruption in international trade and would have significant economic effects on both U.S. importers and U.S. consumers of plants for planting.

Anticipated Cost and Benefits:

Undetermined.

Risks:

In the absence of some action to revise the nursery stock regulations to allow us to better address pest risks, increased introductions of plant pests via imported nursery stock are likely, causing extensive damage to both agricultural and natural plant resources.

Timetable:

Action	Date	FR Cite
NPRM	07/23/09	74 FR 36403
NPRM Comment Period End	10/21/09	
Final Rule	12/00/10	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information:

Additional information about APHIS and its programs is available on the Internet at http://www.aphis.usda.gov.

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RIN: 0579–AC03

USDA—Rural Housing Service (RHS)

FINAL RULE STAGE

8. MULTI–FAMILY HOUSING (MFH) REINVENTION

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

5 USC 301; 42 USC 1490a; 7 USC 1989; 42 USC 1475; 42 USC 1479; 42 USC 1480; 42 USC 1481; 42 USC 1484; 42 USC 1485; 42 USC 1486

CFR Citation:

7 CFR 1806; 7 CFR 1822; 7 CFR 1902; 7 CFR 1925; 7 CFR 1930; 7 CFR 1940; 7 CFR 1942; 7 CFR 1944; 7 CFR 1951; 7 CFR 1955; 7 CFR 1956; 7 CFR 1965; 7 CFR 3560; 7 CFR 3565

Legal Deadline:

None

Abstract:

The Rural Housing Service has consolidated and streamlined the regulations pertaining to section 515 Rural Rental Housing, section 514 Farm Labor Housing Loans, section 516 Farm Labor Housing Grants, and section 521 Rental Assistance Payments. Fourteen published regulations have been reduced to one regulation and handbooks for program administration. This will simplify loan origination and portfolio management for applicants, borrowers, and housing operators, as well as Rural Development field staff. This also provides flexibility for program modifications to reflect current and foreseeable changes. The consolidated regulations save time and simplify costs. Finally, the regulation is more customer friendly and responsive to the needs of the public.

Statement of Need:

The new regulation for the program known as the Multi-Family Housing Loan and Grant Programs will be more user-friendly for lenders, borrowers, and Agency staff. These changes are essential to allow for improved service to the public and for an expanded program with increased impact on rural housing opportunities without a corresponding expansion in Agency staff. The regulations will be shorter, better organized, and more simple and clear. Many documentation requirements will be eliminated or consolidated into more convenient formats.

Summary of Legal Basis:

The existing statutory authority for the MFH programs was established in title V of the Housing Act of 1949, which gave authority to the RHS (then the Farmers Home Administration) to make housing loans to farmers. As a result of this Act, the Agency established single-family and multi-family housing programs. Over time, the sections of the Housing Act of 1949 addressing MFH have been amended a number of times. Amendments have involved issues such as the provision of interest credit, broadening definitions of eligible areas and populations to be served, participation of limited profit entities, the establishment of a rental assistance program, and the imposition of a number of restrictive use provisions and prepayment restrictions.

Alternatives:

To not publish the rule would substantially restrict RHS' ability to effectively administer the programs and cost the Agency significant credibility with the public and oversight organizations.

Anticipated Cost and Benefits:

Based on analysis of the proposed rule, the following impacts may occur, some of which could be considered significant:

There would be cost savings due to reduced paperwork, estimated to be about $1.8 million annually for the public and about $10.1 million for the Government.

Risks:

Without the streamlining, there will be a decrease in the ability of the Agency to provide safe, decent, and sanitary housing to program beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	06/02/03	68 FR 32872
NPRM Comment Period End	08/01/03	
Interim Final Rule	11/26/04	69 FR 69032
Interim Final Rule Comment Period End	12/27/04	
Interim Final Rule Effective	02/22/05	70 FR 8503
Final Action	10/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Agency Contact:

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Related RIN: Merged with 0575–AC24

RIN: 0575–AC13

USDA—Grain Inspection, Packers and Stockyards Administration (GIPSA)

FINAL RULE STAGE

9. ENFORCEMENT OF THE PACKERS AND STOCKYARDS ACT

Priority:

Other Significant

Legal Authority:

7 USC 181

CFR Citation:

9 CFR 201

Legal Deadline:

Final, Statutory, June 18, 2010.

Abstract:

GIPSA is proposing regulations under the Packers and Stockyards Act, 1921, that clarify when certain conduct in the livestock and poultry industries represents the making or giving of an undue or unreasonable preference or advantage or subjects a person or locality to an undue or unreasonable prejudice or disadvantage. These proposed regulations also establish criteria GIPSA will consider in determining whether a live poultry

dealer has provided reasonable notice to poultry growers of any suspension of the delivery of birds under a poultry growing arrangement; when a requirement of additional capital investments over the life of a poultry growing arrangement or swine production contract constitutes a violation of the P&S Act; and whether a live poultry dealer or swine contractor has provided a reasonable period of time for a poultry grower or a swine production contract grower to remedy a breach of contract that could lead to termination of the poultry growing arrangement or swine production contract. The Farm Bill also instructed the Secretary to promulgate regulations to ensure that producers and growers are afforded the opportunity to fully participate in the arbitration process if they so choose.

Statement of Need:

In enacting title XI of the Food, Conservation, and Energy Act of 2008 (Farm Bill) (Pub. L. 110-246), Congress recognized the nature of problems encountered in the livestock and poultry industries and amended the Packers and Stockyards Act (P&S Act). These amendments established new requirements for participants in the livestock and poultry industries and required the Secretary of Agriculture (Secretary) to establish criteria to consider when determining that certain other conduct is in violation of the P&S Act.

The Grain Inspection, Packers and Stockyards Administration's (GIPSA) attempts to enforce the broad prohibitions of the P&S Act have been frustrated, in part because it has not previously defined what conduct constitutes an unfair practice or the giving of an undue preference or advantage. The new regulations that GIPSA is proposing describe and clarify conduct that violates the P&S Act and allow for more effective and efficient enforcement by GIPSA. They will clarify conditions for industry compliance with the P&S Act and provide for a fairer market place.

In accordance with the Farm Bill, GIPSA is proposing regulations under the P&S Act that would clarify when certain conduct in the livestock and poultry industries represents the making or giving of an undue or unreasonable preference or advantage or subjects a person or locality to an undue or unreasonable prejudice or disadvantage. These proposed regulations also establish criteria that GIPSA will consider in determining whether a live poultry dealer has provided reasonable notice to poultry growers of a suspension of the delivery of birds under a poultry growing arrangement; when a requirement of additional capital investments over the life of a poultry growing arrangement or swine production contract constitutes a violation of the P&S Act; and whether a packer, swine contractor or live poultry dealer has provided a reasonable period of time for a grower or a swine producer to remedy a breach of contract that could lead to termination of the growing arrangement or production contract.

The Farm Bill also instructed the Secretary to promulgate regulations to ensure that poultry growers, swine production contract growers and livestock producers are afforded the opportunity to fully participate in the arbitration process, if they so choose. We are proposing a required format for providing poultry growers, swine production contract growers, and livestock producers the opportunity to decline the use of arbitration in contracts requiring arbitration. We are also proposing criteria that we will consider in finding that poultry growers, swine production contract growers, and livestock producers have a meaningful opportunity to participate fully in the arbitration process if they voluntarily agree to do so. We will use these criteria to assess the overall fairness of the arbitration process.

In addition to proposing regulations in accordance with the Farm Bill, GIPSA is proposing regulations that would prohibit certain conduct because it is unfair, unjustly discriminatory or deceptive, in violation of the P&S Act. These additional proposed regulations are promulgated under the authority of section 407 of the P&S Act and complement those required by the Farm Bill to help ensure fair trade and competition in the livestock and poultry industries.

These regulations are intended to address the increased use of contracting in the marketing and production of livestock and poultry by entities under the jurisdiction of the P&S Act, and practices that result from the use of market power and alterations in private property rights, which violate the spirit and letter of the P&S Act. The effect increased contracting has had, and continues to have, on individual agricultural producers has significantly changed the industry and the rural economy as a whole, making these proposed regulations necessary.

Summary of Legal Basis:

Section 407 of the P&S Act (7 U.S.C. 228) provides that the Secretary ''may make such rules, regulations, and orders as may be necessary to carry out the provisions of this Act.'' Sections 11005 and 11006 of the Farm Bill became effective June 18, 2008, and instruct the Secretary to promulgate additional regulations as described in this notice of proposed rulemaking.

Alternatives:

The Farm Bill explicitly directs the Secretary to promulgate certain regulations. GIPSA determined that additional regulations are necessary to provide notice to all regulated entities of types of practices and conduct that GIPSA considers ''unfair'' so that regulated entities are fully informed of actions or practices that are considered ''unfair'' and, therefore, prohibited. Within both the mandatory and discretionary regulatory provisions, we considered alternative options.

For example, GIPSA considered shorter notice periods in situations when a live poultry dealer suspends delivery of birds to a poultry grower. These alternatives would not have provided adequate trust and integrity in the livestock and poultry markets. Other alternatives may have been more restrictive. We considered prohibiting the use of arbitration to resolve disputes; however, that option goes against a popular method of dispute resolution in other industries and is not in line with the spirit of the 2008 Farm Bill. GIPSA believes that this proposed rule represents the best option to level the playing field between packers, swine contractors, live poultry dealers, and the Nation's poultry growers, swine production contract growers, or livestock producers for the benefit of more efficient marketing and public good.

Anticipated Cost and Benefits:

Costs:

Costs are aggregated into three major types: 1) Administrative costs, which include items such as office work, postage, filing, and copying; 2) costs of analysis, such as a business conducting a profit-loss analysis; and 3) adjustment costs, such as costs related to changing business behavior to achieve compliance with the proposed regulation.

Benefits:

Benefits are also aggregated into three major groups: 1) Increased pricing

efficiency; 2) allocation efficiency; and 3) competitive efficiency.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	06/22/10	75 FR 35338
NPRM Comment Period End	08/23/10	
Final Action	03/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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USDA—Food and Nutrition Service (FNS)

PROPOSED RULE STAGE

10. ELIGIBILITY, CERTIFICATION, AND EMPLOYMENT AND TRAINING PROVISIONS OF THE FOOD, CONSERVATION, AND ENERGY ACT OF 2008

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

PL 110–246; PL 104–121

CFR Citation:

7 CFR 273

Legal Deadline:

None

Abstract:

This proposed rule would amend the regulations governing the Supplemental Nutrition Assistance Program (SNAP) to implement provisions from the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246) (FCEA) concerning the eligibility and certification of SNAP applicants and participants and SNAP employment and training. In addition, this proposed rule would revise the SNAP regulations throughout 7 CFR part 273 to change the program name from the Food Stamp Program to SNAP and to make other nomenclature changes as mandated by the FCEA. The statutory effective date of these provisions was October 1, 2008. Food and Nutrition Service (FNS) is also proposing two discretionary revisions to SNAP regulations to provide State agencies options that are currently available only through waivers. These provisions would allow State agencies to average student work hours and to provide telephone interviews in lieu of face-to-face interviews. FNS anticipates that this rule would impact the associated paperwork burdens (08-006).

Statement of Need:

This proposed rule would amend the regulations governing SNAP to implement provisions from the FCEA concerning the eligibility and certification of SNAP applicants and participants and SNAP employment and training. In addition, this proposed rule would revise the SNAP regulations throughout 7 CFR part 273 to change the program name from the Food Stamp Program to SNAP and to make other nomenclature changes as mandated by the FCEA. The statutory effective date of these provisions was October 1, 2008. FNS is also proposing 2 discretionary revisions to SNAP regulations to provide State agencies options that are currently available only through waivers. These provisions would allow State agencies to average student work hours and to provide telephone interviews in lieu of face-to-face interviews. FNS anticipates that this rule would impact the associated paperwork burdens.

Summary of Legal Basis:

Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246).

Alternatives:

Because this proposed rule is under development, alternatives are not yet articulated. The rule would implement statutory requirements set forth by the Food, Conservation, and Energy Act of 2008 concerning SNAP eligibility and certification rules.

Anticipated Cost and Benefits:

FNS is currently developing estimates of the anticipated costs and benefits of this rule. Anticipated principle effects would be on paperwork burdens.

Risks:

The statutory changes and discretionary ones under consideration would streamline program operations. The changes are expected to reduce the risk of inefficient operations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Local, State

Agency Contact:

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RIN: 0584–AD87

USDA—FNS

11. SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM: FARM BILL OF 2008 RETAILER SANCTIONS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

PL 110–246

CFR Citation:

7 CFR 276

Legal Deadline:

None

Abstract:

This proposed rule would implement provisions under section 4132 of the Food, Conservation, and Energy Act of 2008, also referred to as the Farm Bill of 2008. Under section 4132, the Department of Agriculture's Food and Nutrition Service (FNS) is provided with greater authority and flexibility when sanctioning retail or wholesale food stores that violate Supplemental Nutrition Assistance Program (SNAP) rules. Specifically, the Department is authorized to assess a civil penalty and to disqualify a retail or wholesale food

store authorized to participate in SNAP. Previously, the Department could assess a civil penalty or disqualification, but not both. Section 4132 also eliminates the minimum disqualification period which was previously set at 6 months.

In addition to implementing statutory provisions, this rule proposes to provide a clear administrative penalty when an authorized retailer or wholesale food store redeems a SNAP participant's Program benefits without the knowledge of the participant. All Program benefits are issued through the Electronic Benefits Transfer (EBT) system. The EBT system establishes data that may be used to identify fraud committed by retail food stores. While stealing Program benefits could be prosecuted under current statute, Program regulations do not provide a clear penalty for these thefts. The proposed rule would establish an administrative penalty for such thefts equivalent to the penalty for trafficking in Program benefits, which is the permanent disqualification of a retailer or wholesale food store from SNAP participation.

Finally, the Department proposes to identify additional administrative retail violations and the associated sanction that would be imposed against the retail food store for committing the violation. For instance, to maintain integrity, FNS requires retail and wholesale food stores to key enter EBT card data in the presence of the actual EBT card.

The proposed rule would codify this requirement and identify the specific sanction that would be imposed if retail food stores are found to be in violation (08-007).

Statement of Need:

This proposed rule would implement provisions under section 4132 of the Food, Conservation, and Energy Act of 2008, also referred to as the Farm Bill of 2008. Under section 4132, the Department of Agriculture's Food and Nutrition Service (FNS) is provided with greater authority and flexibility when sanctioning retail or wholesale food stores that violate Supplemental Nutrition Assistance Program (SNAP) rules. Specifically, the Department is authorized to assess a civil penalty and to disqualify a retail or wholesale food store authorized to participate in SNAP. Previously, the Department could assess a civil penalty or disqualification, but not both. Section 4132 also eliminates the minimum disqualification period which was previously set at six months. In addition to implementing statutory provisions, this rule proposes to provide a clear administrative penalty when an authorized retailer or wholesale food store redeems a SNAP participant's Program benefits without the knowledge of the participant. All Program benefits are issued through the Electronic Benefits Transfer (EBT) system. The EBT system establishes data that may be used to identify fraud committed by retail food stores. While stealing Program benefits could be prosecuted under current statute, Program regulations do not provide a clear penalty for these thefts. The proposed rule would establish an administrative penalty for such thefts equivalent to the penalty for trafficking in Program benefits, which is the permanent disqualification of a retailer or wholesale food store from SNAP participation. Finally, the Department proposes to identify additional administrative retail violations and the associated sanction that would be imposed against the retail food store for committing the violation. For instance, to maintain integrity, FNS requires retail and wholesale food stores to key enter EBT card data in the presence of the actual EBT card. The proposed rule would codify this requirement and identify the specific sanction that would be imposed if retail food stores are found to be in violation.

Summary of Legal Basis:

Section 4132, Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246).

Alternatives:

Because this proposed rule is under development alternatives are not yet articulated.

Anticipated Cost and Benefits:

Because this proposed rule is under development anticipated costs and benefits have not yet been articulated.

Risks:

The risk that retail or wholesale food stores will violate SNAP rules, or continue to violate SNAP rules, is expected to be reduced by refining program sanctions for participating retailers and wholesalers.

Timetable:

Action	Date	FR Cite
NPRM	09/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

Additional Information:

Note: This RIN replaces the previously issued RIN 0584-AD78.

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RIN: 0584–AD88

USDA—FNS

12. FRESH FRUIT AND VEGETABLE PROGRAM

Priority:

Other Significant

Legal Authority:

Food, Conservation, and Energy Act of 2008; National School Lunch Act (NSLA); 42 USC 1769(a)

CFR Citation:

7 CFR 211

Legal Deadline:

None

Abstract:

The Food, Conservation, and Energy Act of 2008 amended the National School Lunch Act (NSLA) to add section 19, the Fresh Fruit and Vegetable Program (FFVP). Section 19 establishes the FFVP as a permanent national program in a select number of schools in each State, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. Schools in all States must apply annually for FFVP funding.

This proposed rule would implement statutory requirements currently established through program policy and guidance for operators at the State and local level. The proposed rule would set forth requirements detailed in the statute for school selection and participation, State agency outreach to needy schools, the yearly application process, and the funding and allocation processes for schools and States. The proposed rule would also include the statutory per student funding range and the requirement for a program evaluation.

In addition, the proposed rule would establish oversight activity and reporting and recordkeeping requirements that are not included in FFVP statutory requirements. Implementation of this rule is not expected to result in expenses for program operators because they receive funding to cover food purchases and administrative costs (09-007).

Statement of Need:

The Food, Conservation, and Energy Act of 2008 amended the National School Lunch Act (NSLA) to add section 19, the Fresh Fruit and Vegetable Program (FFVP). Section 19 establishes the FFVP as a permanent national program in a select number of schools in each State, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. Schools in all States must apply annually for FFVP funding. This proposed rule would implement statutory requirements currently established through program policy and guidance for operators at the State and local level. The proposed rule would set forth requirements detailed in the statute for school selection and participation, State agency outreach to needy schools, the yearly application process, and the funding and allocation processes for schools and States. The proposed rule would also include the statutory per student funding range and the requirement for a program evaluation.

Summary of Legal Basis:

Section 19, Food, Conservation, and Energy Act of 2008. National School Lunch Act (NSLA). 42 U.S.C. 1769(a).

Alternatives:

Because this proposed rule is under development, alternatives are not yet articulated. The rule would implement statutory requirements set forth by the Food, Conservation, and Energy Act of 2008 by adding section 19, the Fresh Fruit and Vegetable Program (FFVP), to the National School Lunch Act. Alternatives to this process are not known or being pursued at this time.

Anticipated Cost and Benefits:

Implementation of this rule is not expected to result in expenses for program operators because they receive funding to cover food purchases and administrative costs.

Risks:

No risks by implementing this proposed rule have been identified at this time.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	
NPRM Comment Period End	04/00/11	
Final Action	08/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Local, State

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USDA—FNS

FINAL RULE STAGE

13. CHILD AND ADULT CARE FOOD PROGRAM: IMPROVING MANAGEMENT AND PROGRAM INTEGRITY

Priority:

Other Significant

Legal Authority:

42 USC 1766; PL 103–448; PL 104–193; PL 105–336

CFR Citation:

7 CFR 226

Legal Deadline:

None

Abstract:

This rule amends the Child and Adult Care Food Program (CACFP) regulations. The changes in this rule result from the findings of State and Federal program reviews and from audits and investigations conducted by the Office of Inspector General. This rule revises: State agency criteria for approving and renewing institution applications; program training and other operating requirements for child care institutions and facilities; and State and institution-level monitoring requirements. This rule also includes changes that are required by the Healthy Meals for Healthy Americans Act of 1994 (Pub. L. 103-448), the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (Pub. L. 104-193), and the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Pub. L. 105-336).

The changes are designed to improve program operations and monitoring at the State and institution levels and, where possible, to streamline and simplify program requirements for State agencies and institutions (95-024).

Statement of Need:

In recent years, State and Federal program reviews have found numerous cases of mismanagement, abuse, and, in some instances, fraud by child care institutions and facilities in the CACFP. These reviews revealed weaknesses in management controls over program operations and examples of regulatory noncompliance by institutions, including failure to pay facilities or failure to pay them in a timely manner; improper use of program funds for non-program expenditures; and improper meal reimbursements due to incorrect meal counts or to mis-characterized or incomplete income eligibility statements. In addition, audits and investigations conducted by the Office of Inspector General (OIG) have raised serious concerns regarding the adequacy of financial and administrative controls in CACFP. Based on its findings, the OIG recommended changes to CACFP review requirements and management controls.

Summary of Legal Basis:

Some of the changes proposed in the rule are discretionary changes being made in response to deficiencies found in program reviews and OIG audits. Other changes codify statutory changes made by the Healthy Meals for Healthy Americans Act of 1994 (Pub. L. 103-448), the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (Pub. L. 104-193), and the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Pub. L. 105-336).

Alternatives:

This proposed interim final rule is under development and alternatives are not yet articulated. FNS is working with State agencies to identify reasonable alternatives to implement the changes mandated by law. FNS will be developing extensive guidance materials in conjunction with agency

cooperators to meet the objectives of the statute.

Anticipated Cost and Benefits:

This rule contains changes designed to improve management and financial integrity in the CACFP. When implemented, these changes would affect all entities in CACFP, from USDA to participating children and children's households. These changes will primarily affect the procedures used by State agencies in reviewing applications submitted by, and monitoring the performance of, institutions which are participating or wish to participate in the CACFP. Those changes which would affect institutions and facilities will not, in the aggregate, have a significant economic impact.

Data on CACFP integrity is limited, despite numerous OIG reports on individual institutions and facilities that have been deficient in CACFP management. While program reviews and OIG reports clearly illustrate that there are weaknesses in parts of the program regulations and that there have been weaknesses in oversight, neither program reviews, OIG reports, nor any other data sources illustrate the prevalence and magnitude of CACFP fraud and abuse. This lack of information precludes USDA from estimating the amount of money lost due to fraud and abuse or the reduction in fraud and abuse the changes in this rule will realize.

Risks:

With the interim final rule in place and operational, risk of integrity problems is reduced. The final rule will use comments from stakeholders to further improve the rule.

Timetable:

Action	Date	FR Cite
NPRM	09/12/00	65 FR 55103
NPRM Comment Period End	12/11/00	
Interim Final Rule	06/27/02	67 FR 43448
Interim Final Rule Effective	07/29/02	
Interim Final Rule Comment Period End	12/24/02	
Interim Final Rule	09/01/04	69 FR 53502
Interim Final Rule Effective	10/01/04	
Interim Final Rule Comment Period End	09/01/05	
Final Action	02/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Local, State

Federalism:

This action may have federalism implications as defined in EO 13132.

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Related RIN: Merged with 0584–AC94

RIN: 0584–AC24

USDA—FNS

14. DIRECT CERTIFICATION OF CHILDREN IN FOOD STAMP HOUSEHOLDS AND CERTIFICATION OF HOMELESS, MIGRANT, AND RUNAWAY CHILDREN FOR FREE MEALS IN THE NSLP, SBP, AND SMP

Priority:

Other Significant

Legal Authority:

PL 108–265, sec 104

CFR Citation:

7 CFR 210; 7 CFR 215; 7 CFR 220; 7 CFR 245

Legal Deadline:

None

Abstract:

In response to Public Law 108-265, which amended the Richard B. Russell National School Lunch Act, 7 CFR 245, Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools, will be amended to establish categorical (automatic) eligibility for free meals and free milk upon documentation that a child is (1) homeless as defined by the McKinney-Vento Homeless Assistance Act; (2) a runaway served by grant programs under the Runaway and Homeless Youth Act; or (3) migratory as defined in section 1309(2) of the Elementary and Secondary Education Act. The rule also requires phase-in of mandatory direct certification for children who are members of households receiving food stamps and continues discretionary direct certification for other categorically eligible children (04-018).

Statement of Need:

The changes made to the Richard B. Russell National School Lunch Act concerning direct certification are intended to improve program access, reduce paperwork, and improve the accuracy of the delivery of free meal benefits. This regulation will implement the statutory changes and provide State agencies and local educational agencies with the policies and procedures to conduct mandatory and discretionary direct certification.

Summary of Legal Basis:

These changes are being made in response to provisions in Public Law 108-265.

Anticipated Cost and Benefits:

This regulation will reduce paperwork, target benefits more precisely, and will improve program access of eligible school children.

Risks:

This regulation may require adjustments to existing computer systems to more readily share information between schools, food stamp offices, and other agencies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/11	
Interim Final Rule Comment Period End	05/00/11	
Final Action	10/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Local, State

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Related RIN: Merged with 0584–AD62

RIN: 0584–AD60

USDA—FNS

15. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC): REVISIONS IN THE WIC FOOD PACKAGES

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 1786

CFR Citation:

7 CFR 246

Legal Deadline:

Final, Statutory, November 2006.

CN and WIC Reauthorization Act of 2004 (Pub. L. 108-265) requires issuance of a final rule within 18 months of release of IOM Report.

Abstract:

This final rule will affirm and address comments from stakeholders on the interim final rule that went into effect October 1, 2009, and for which the comment period ended February 1, 2010. Significant changes to the rule are not anticipated. The rule amended regulations governing the WIC food packages to align them more closely with updated nutrition science and the infant feeding practice guidelines of the American Academy of Pediatrics, promote and support more effectively the establishment of successful long-term breastfeeding, provide WIC participants with a wider variety of food, and provide WIC State agencies with greater flexibility in prescribing food packages to accommodate participants with cultural food preferences. The final rule considers public comments submitted on the impacts of the changes and how they might be refined to assist State agencies and recipients.

Statement of Need:

As the population served by WIC has grown and become more diverse over the past 20 years, the nutritional risks faced by participants have changed, and though nutrition science has advanced, the WIC supplemental food packages have remained largely unchanged. A rule is needed to implement recommended changes to the WIC food packages based on the current nutritional needs of WIC participants and advances in nutrition science.

Summary of Legal Basis:

The Child Nutrition and WIC Reauthorization Act of 2004, enacted on June 30, 2004, requires the Department to issue a final rule within 18 months of receiving the Institute of Medicine's report on revisions to the WIC food packages. This report was published and released to the public on April 27, 2005.

Alternatives:

FNS developed a regulatory impact analysis that addressed a variety of alternatives that were considered in the interim final rulemaking. The regulatory impact analysis was published as an appendix to the interim rule. FNS developed a regulatory impact analysis that addressed a variety of alternatives that were considered in the interim final rulemaking. That regulatory impact analysis was published as an appendix to the interim rule.

Anticipated Cost and Benefits:

The regulatory impact analysis for this rule provided a reasonable estimate of the anticipated effects of the rule. This analysis estimated that the provisions of the rule would have a minimal impact on the costs of overall operations of the WIC Program over 5 years. The regulatory impact analysis was published as an appendix to the interim rule.

Risks:

This rule applies to WIC State agencies with respect to their selection of foods to be included on their food lists. As a result, vendors will be indirectly affected and the food industry will realize increased sales of some foods and decreases in other foods, with an overall neutral effect on sales nationally. The rule may have an indirect economic affect on certain small businesses because they may have to carry a larger variety of certain foods to be eligible for authorization as a WIC vendor. With the high degree of State flexibility allowable under this final rule, small vendors will be impacted differently in each State depending upon how that State chooses to meet the new requirements. It is, therefore, not feasible to accurately estimate the rule's impact on small vendors. Since neither FNS nor the State agencies regulate food producers under the WIC Program, it is not known how many small entities within that industry may be indirectly affected by the rule. FNS has, however, modified the new food provision in an effort to mitigate the impact on small entities. This rule adds new food items, such as fruits and vegetables and whole grain breads, which may require some WIC vendors, particularly smaller stores, to expand the types and quantities of food items stocked in order to maintain their WIC authorization. In addition, vendors also have to make available more than one food type from each WIC food category, except for the categories of peanut butter and eggs, which may be a change for some vendors. To mitigate the impact of the fruit and vegetable requirement, the rule allows canned, frozen, and dried fruits and vegetables to be substituted for fresh produce. Opportunities for training on and discussion of the revised WIC food packages will be offered to State agencies and other entities as necessary.

Timetable:

Action	Date	FR Cite
NPRM	08/07/06	71 FR 44784
NPRM Comment Period End	11/06/06	
Interim Final Rule	12/06/07	72 FR 68966
Interim Final Rule Effective	02/04/08	
Interim Final Rule Comment Period End	02/01/10	
Final Action	06/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Federal, Local, State, Tribal

URL For More Information:

www.fns.usda.gov/wic

URL For Public Comments:

www.fns.usda.gov/wic

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RIN: 0584–AD77

USDA—Food Safety and Inspection Service (FSIS)

PROPOSED RULE STAGE

16. EGG PRODUCTS INSPECTION REGULATIONS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

21 USC 1031 to 1056

CFR Citation:

9 CFR 590.570; 9 CFR 590.575; 9 CFR 590.146; 9 CFR 590.10; 9 CFR 590.411; 9 CFR 590.502; 9 CFR 590.504; 9 CFR 590.580; 9 CFR 591; . . .

Legal Deadline:

None

Abstract:

The Food Safety and Inspection Service (FSIS) is proposing to require egg products plants and establishments that pasteurize shell eggs to develop and implement Hazard Analysis and Critical Control Points (HACCP) systems and Sanitation (SOPs). FSIS also is proposing pathogen reduction performance standards that would be applicable to egg products and pasteurized shell eggs. FSIS is proposing to amend the Federal egg products inspection regulations by removing current requirements for prior approval by FSIS of egg products plant drawings, specifications, and equipment prior to their use in official plants. The Agency also plans to eliminate the prior label approval system for egg products. This proposal will not encompass shell egg packers. In the near future, FSIS will initiate non-regulatory outreach efforts for shell egg packers that will provide information intended to help them safely process shell eggs intended for human consumption or further processing.

Statement of Need:

The actions being proposed are part of FSIS' regulatory reform effort to improve FSIS' shell egg and egg products food safety regulations, better define the roles of Government and the regulated industry, encourage innovations that will improve food safety, remove unnecessary regulatory burdens on inspected egg products plants, and make the egg products regulations as consistent as possible with the Agency's meat and poultry products regulations. FSIS also is taking these actions in light of changing inspection priorities and recent findings of Salmonella in pasteurized egg products.

This proposal is directly related to FSIS' PR/HACCP initiative.

Summary of Legal Basis:

This proposed rule is authorized under the Egg Products Inspection Act (21 U.S.C. 1031 to 1056). It is not the result of any specific mandate by the Congress or a Federal court.

Alternatives:

A team of FSIS economists and food technologists is conducting a cost-benefit analysis to evaluate the potential economic impacts of several alternatives on the public, egg products industry, and FSIS. These alternatives include: (1) Taking no regulatory action; (2) requiring all inspected egg products plants to develop, adopt, and implement written sanitation SOPs and HACCP plans; and (3) converting to a lethality-based pathogen reduction performance standard many of the current highly prescriptive egg products processing requirements. The team will consider the effects of a uniform, across-the-board standard for all egg products; a performance standard based on the relative risk of different classes of egg products; and a performance standard based on the relative risks to public health of different production processes.

Anticipated Cost and Benefits:

FSIS is analyzing the potential costs of this proposed rulemaking to industry, FSIS, and other Federal agencies, State and local governments, small entities, and foreign countries. The expected costs to industry will depend on a number of factors. These costs include the required lethality, or level of pathogen reduction, and the cost of HACCP plan and sanitation SOP development, implementation, and associated employee training. The pathogen reduction costs will depend on the amount of reduction sought and on the classes of product, product formulations, or processes.

Relative enforcement costs to FSIS and Food and Drug Administration may change because the two agencies share responsibility for inspection and oversight of the egg industry and a common farm-to-table approach for shell egg and egg products food safety. Other Federal agencies and local governments are not likely to be affected.

Egg product inspection systems of foreign countries wishing to export egg products to the U.S. must be equivalent to the U.S. system. FSIS will consult with these countries, as needed, if and when this proposal becomes effective.

This proposal is not likely to have a significant impact on small entities. The entities that would be directly affected by this proposal would be the approximately 80 federally inspected egg products plants, most of which are small businesses, according to Small Business Administration criteria. If necessary, FSIS will develop compliance guides to assist these small firms in implementing the proposed requirements.

Potential benefits associated with this rulemaking include: Improvements in human health due to pathogen reduction; improved utilization of FSIS inspection program resources; and cost savings resulting from the flexibility of egg products plants in achieving a lethality-based pathogen reduction performance standard. Once specific alternatives are identified, economic analysis will identify the quantitative and qualitative benefits associated with each alternative.

Human health benefits from this rulemaking are likely to be small because of the low level of (chiefly post-processing) contamination of pasteurized egg products. In light of recent scientific studies that raise questions about the efficacy of current regulations, however, it is likely that measurable reductions will be achieved in the risk of foodborne illness.

The preliminary anticipated annualized costs of the proposed action are approximately $7 million. The preliminary anticipated benefits of the proposed action are approximately $90 million per year.

Risks:

FSIS believes that this regulatory action may result in a further reduction in the risks associated with egg products. The development of a lethality-based pathogen reduction performance standard for egg products, replacing command-and-control regulations, will remove unnecessary regulatory obstacles to, and provide incentives for, innovation to improve the safety of egg products.

To assess the potential risk-reduction impacts of this rulemaking on the

public, an intra-Agency group of scientific and technical experts is conducting a risk management analysis. The group has been charged with identifying the lethality requirement sufficient to ensure the safety of egg products and the alternative methods for implementing the requirement. FSIS has developed new risk assessments for Salmonella Enteritidis in eggs and for Salmonella spp. in liquid egg products to evaluate the risk associated with the regulatory alternatives.

Timetable:

Action	Date	FR Cite
NPRM	09/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

None

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USDA—FSIS

17. NEW POULTRY SLAUGHTER INSPECTION

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

21 USC 451 et seq

CFR Citation:

9 CFR 381.66; 9 CFR 381.67; 9 CFR 381.76; 9 CFR 381.83; 9 CFR 381.91; 9 CFR 381.94

Legal Deadline:

None

Abstract:

FSIS is proposing a new inspection system for young poultry slaughter establishments that would facilitate public health-based inspection. This new system would be available initially only to young chicken slaughter establishments. Establishments that slaughter broilers, fryers, roasters, and Cornish game hens (as defined in 9 CFR 381.170) would be considered as ''young chicken establishments.'' FSIS is also proposing to revoke the provisions that allow young chicken slaughter establishments to operate under the current Streamlined Inspection System (SIS) or the New Line Speed (NELS) Inspection System. The proposed rule would establish new performance standards to reduce pathogens. FSIS anticipates that this proposed rule would provide the framework for action to provide public health-based inspection in all establishments that slaughter amenable poultry species.

Under the proposed new system, young chicken slaughter establishments would be required to sort chicken carcasses and to conduct other activities to ensure that carcasses are not adulterated before they enter the chilling tank.

Statement of Need:

Because of the risk to the public health associated with pathogens on young chicken carcasses, FSIS is proposing a new inspection system that would allow for more effective inspection of young chicken carcasses, would allow the Agency to more effectively allocate its resources, would encourage industry to more readily use new technology, and would include new performance standards to reduce pathogens.

This proposed rule is an example of regulatory reform because it would facilitate technological innovation in young chicken slaughter establishments. It would likely result in more cost-effective dressing of young chickens that are ready to cook or ready for further processing. Similarly, it would likely result in more efficient and effective use of Agency resources.

Summary of Legal Basis:

The Secretary of Agriculture is charged by the Poultry Products Inspection Act (PPIA—21 U.S.C. 451 et seq.) with carrying out a mandatory poultry products inspection program. The Act requires post-mortem inspection of all carcasses of slaughtered poultry subject to the Act and such reinspection as deemed necessary (21 U.S.C. 455(b)). The Secretary is authorized to promulgate such rules and regulations as are necessary to carry out the provisions of the Act (21 U.S.C. 463(b)). The Agency has tentatively determined that this rule would facilitate FSIS post-mortem inspection of young chicken carcasses. The proposed new system would likely result in more efficient and effective use of Agency resources and in industry innovations.

Alternatives:

FSIS considered the following options in developing this proposal:

1) No action.

2) Propose to implement HACCP-Based Inspection Models Pilot in regulations.

3) Propose to establish a mandatory, rather than a voluntary, new inspection system for young chicken slaughter establishments.

4) Propose standards of identity regulations for young chickens that include trim and processing defect criteria and that take into account the intended use of the product.

5) Propose a voluntary new inspection system for young chicken slaughter establishments and propose standards of identity for whole chickens, regardless of the products' intended use.

Anticipated Cost and Benefits:

The proposed performance standards and the implementation of public health-based inspection would likely improve the public health. FSIS is conducting a risk assessment for this proposed rule to assess the likely public health benefits that the implementation of this rule may achieve.

Establishments that volunteer for this proposed new inspection system alternative would likely need to make capital investments in facilities and equipment. They may also need to add labor (trained employees). However, one of the beneficial effects of these investments would likely be the lowering of the average cost per pound to dress poultry properly. Cost savings would likely result because of increased line speeds, increased productivity, and increased flexibility to industry. The expected lower average unit cost for dressing poultry would likely give a marketing advantage to establishments under the new system. Consumers would likely benefit from lower retail prices for high quality poultry products. The rule would also likely provide opportunities for the industry to innovate because of the increased flexibility it would allow poultry slaughter establishments. In addition, in the public sector, benefits would accrue to FSIS from the more effective deployment of FSIS inspection program personnel to verify process

control based on risk factors at each establishment.

Risks:

Salmonella and other pathogens are present on a substantial portion of poultry carcasses inspected by FSIS. Foodborne Salmonella cause a large number of human illnesses that at times lead to hospitalization and even death. There is an apparent relationship between human illness and prevalence levels for salmonella in young chicken carcasses. FSIS believes that through better allocation of inspection resources and the use of performance standards, it would be able to reduce the prevalence of salmonella and other pathogens in young chickens.

Timetable:

Action	Date	FR Cite
NPRM	10/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—FSIS

18. MANDATORY INSPECTION OF CATFISH AND CATFISH PRODUCTS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

21 USC 601 et seq; PL 110–249, sec 11016

CFR Citation:

9 CFR ch III, subchapter F (new)

Legal Deadline:

Final, Statutory, December 2009, Final regulations NLT 18 months after enactment of PL 110–246.

Abstract:

The Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, sec. 11016), known as the 2008 Farm Bill, amended the Federal Meat Inspection Act (FMIA) to make catfish an amenable species under the FMIA. Amenable species must be inspected, so this rule will define inspection requirements for catfish. The regulations will define ''catfish'' and the scope of coverage of the regulations to apply to establishments that process farm-raised species of catfish and to catfish and catfish products. The regulations will take into account the conditions under which the catfish are raised and transported to a processing establishment.

Statement of Need:

The Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, sec. 11016), known as the 2008 Farm Bill, amended the Federal Meat Inspection Act (FMIA) to make catfish an amenable species under the FMIA. The Farm Bill directs the Department to issue final regulations implementing the FMIA amendments not later than 18 months after the enactment date (June 18, 2008) of the legislation.

Summary of Legal Basis:

21 U.S.C. 601 to 695 and Public Law 110-246, section 11016

Alternatives:

The option of no rulemaking is unavailable. The Agency has considered alternative methods of implementation and levels of stringency, and the effects on foreign and domestic commerce and on small business associated with the alternatives.

Anticipated Cost and Benefits:

FSIS anticipates benefits from uniform standards and the more extensive and intensive inspection service that FSIS provides (compared with current voluntary inspection programs). FSIS would apply requirements for imported catfish that would be equivalent to those applying to catfish raised and processed in the United States.

Risks:

In preparing regulations on catfish and catfish products, the Agency will consider any risks to public health or other pertinent risks associated with the production, processing, and distribution of the products. FSIS will determine, through scientific risk assessment procedures, the magnitude of the risks associated with catfish and how they compare with those associated with other foods in FSIS's jurisdiction.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0583–AD36

USDA—FSIS

19. ELECTRONIC IMPORTED PRODUCT INSPECTION APPLICATIONS; ELECTRONIC FOREIGN IMPORTED PRODUCT AND FOREIGN ESTABLISHMENT CERTIFICATIONS; DELETION OF STREAMLINED INSPECTION PROCEDURES FOR CANADIAN PRODUCT

Priority:

Other Significant

Legal Authority:

Federal Meat Inspection Act (FMIA) (21 USC 601 to 695), the Poultry Products Inspection Act (PPIA) (21 USC 451 to 470); Egg Products Inspection Act (EPIA) (21 USC 1031 to 1056)

CFR Citation:

9 CFR 304.3; 9 CFR 327.2 and 327.4; 9 CFR 381.196 to 381.198; 9 CFR 590.915 and 590.920

Legal Deadline:

None

Abstract:

FSIS is proposing to amend the meat, poultry, and egg products import inspection regulations to provide for an electronic application, and electronic imported product and foreign establishment certification system. FSIS

is also proposing to delete the ''streamlined'' import inspection procedures for Canadian product. In addition, the Agency is proposing that official import inspection establishment must develop, implement, and maintain written Sanitation SOPs, as provided in 9 CFR 416.11 through 416.17.

Statement of Need:

FSIS is proposing these regulations to provide for the electronic import system, which will be available through the Agency's Public Health Information System (PHIS), a computerized, Web-based inspection information system. The import system will enable applicants to electronically submit and track import inspection applications that are required for all commercial entries of FSIS regulated products imported in to the U.S. FSIS inspection program personnel will be able to access the PHIS system to assign appropriate imported product inspection activities. The electronic import system will also facilitate the foreign imported product and annual foreign establishment certifications by providing immediate and direct electronic government-to-government exchange of information. The Agency is proposing to delete the Canadian streamlined import inspection procedures because they have not been in use since 1990 and are obsolete. Sanitation SOPs are written procedures establishments develop, implement, and maintain to prevent direct contamination or adulteration of meat or poultry products. To ensure that imported meat and poultry products do not become contaminated while undergoing reinspection prior to entering the U.S., FSIS is proposing to clarify that official import inspection establishments must develop written Sanitation SOPs.

Summary of Legal Basis:

The authorities for this proposed rule are: the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 to 695), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 to 470), Egg Products Inspection Act (EPIA)(21 U.S.C. 1031 to 1056) and the regulations that implement these Acts.

Alternatives:

The use of the electronic import system is voluntary. The Agency will continue to accept and process paper import inspection applications, and foreign establishment and foreign imported product certificates. The Canadian streamlined import inspection procedures are not currently in use. Proposing Sanitation SOPs in official import inspection establishments will prevent direct contamination or adulteration of product. Therefore, no alternatives were considered.

Anticipated Cost and Benefits:

Under this proposed rule, the industry will have the option of filing inspection applications electronically and submitting electronic foreign product and establishment certificates through the PHIS. Since the electronic option is voluntary; applicants and the foreign countries that choose to file electronically will do so only if the benefits outweigh the cost. Sanitation (SOPs) are a condition of approval for official import inspection establishments, and as a requirement for official import inspection establishments to continue to operate under Federal inspection. The proposed rule will clarify that official import inspection establishments must have developed written Sanitation SOPs before being granted approval and that existing official import inspection establishments must meet Sanitation SOP requirements. Since, in practice, FSIS has always expected official import inspection establishments to maintain Sanitation SOPs during the reinspection of imported products, the proposed amendment for these sanitation requirements will have little, if any, cost impact on the industry.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

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USDA—FSIS

20. ELECTRONIC EXPORT APPLICATION AND CERTIFICATION AS A REIMBURSABLE SERVICE AND FLEXIBILITY IN THE REQUIREMENTS FOR OFFICIAL EXPORT INSPECTION MARKS, DEVICES, AND CERTIFICATES

Priority:

Other Significant

Legal Authority:

Federal Meat Inspection Act (FMIA) (21 USC 601 to 695); Poultry Products Inspection Act (PPIA) (21 USC 451 to 470); Egg Products Inspection Act (EPIA) (21 USC 1031 to 1056)

CFR Citation:

9 CFR 312.8; 9 CFR 322.1 and 322.2; 9 CFR 350.7; 9 CFR 362.5; 9 CFR 381.104 to 381.106; 9 CFR 590.407; 9 CFR 592.20 and 592.500

Legal Deadline:

None

Abstract:

The Food Safety and Inspection Service (FSIS) is proposing to amend the meat, poultry, and egg product inspection regulations to provide an electronic export application and certification process. FSIS is proposing to charge users for the use of the proposed system. FSIS is also proposing to provide establishments that export meat, poultry, and egg products with flexibility in the official export inspection marks, devices, and certificates. In addition, FSIS is proposing egg product export regulations that parallel the meat and poultry export regulations.

Statement of Need:

FSIS is proposing these regulations to facilitate the electronic processing of export applications and certificates through the Public Health Information System (PHIS), a computerized, Web-based inspection information system. The current export application and

certification regulations provide only for a paper-based process. This proposed rule will provide this electronic export system as a reimbursable certification service charged to the exporter.

Summary of Legal Basis:

The authorities for this proposed rule are: The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 to 695), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 to 470), the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 to 1056), and the regulations that implement these Acts. FSIS is proposing to charge for the electronic export application and certification system under the Agricultural Marketing Act (7 U.S.C. 1622(h)) that provides the Secretary of Agriculture with the authority to: ''Inspect, certify, and identify the class, quality, quantity, and condition of agricultural products when shipped or received in interstate commerce, under such rules and regulations as the Secretary of Agriculture may prescribe, including assessment and collection of such fees as will be reasonable and as nearly as may be to cover the cost of the service rendered, to the end that agricultural products may be marketed to the best advantage, that trading may be facilitated, and that consumers may be able to obtain the quality product which they desire.''

Alternatives:

The electronic export applications and certification system is being proposed as a voluntary service, therefore, exporters have the option of continuing to use the current paper-based system. Therefore, no alternatives were considered.

Anticipated Cost and Benefits:

FSIS is proposing to charge exporters that choose to utilize the system $90.00 per application submitted. Automating the export application and certification process will facilitate the exportation of U.S. meat, poultry, and egg products by streamlining and automating the processes that are in use while ensuring that foreign regulatory requirements are met. The direct cost to exporters would be approximately $22.5 million to $31.5 million per year, if they choose to file electronically. However, the total cost to an exporter would depend on the number of electronic applications processed. An exporter that processes only a few applications per year would not be likely to experience a significant economic impact. Under this proposal, inspection personnel workload is reduced through the elimination of the physical handling and processing of applications and certificates. When an electronic government-to-government system interface or data exchange is used, fraudulent transactions, such as false alterations and reproductions, will be significantly reduced, if not eliminated. The electronic export system is designed to ensure authenticity, integrity, and confidentiality. Exporters will be provided a more efficient and effective application and certification process. The proposed egg product export regulations provide the same export requirements across all products regulated by FSIS and consistency in the export application and certification process.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

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USDA—FSIS

FINAL RULE STAGE

21. PERFORMANCE STANDARDS FOR THE PRODUCTION OF PROCESSED MEAT AND POULTRY PRODUCTS; CONTROL OF LISTERIA MONOCYTOGENES IN READY–TO–EAT MEAT AND POULTRY PRODUCTS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

21 USC 451 et seq; 21 USC 601 et seq

CFR Citation:

9 CFR 301; 9 CFR 303; 9 CFR 317; 9 CFR 318; 9 CFR 319; 9 CFR 320; 9 CFR 325; 9 CFR 331; 9 CFR 381; 9 CFR 417; 9 CFR 430; 9 CFR 431

Legal Deadline:

None

Abstract:

FSIS has proposed to establish pathogen reduction performance standards for all ready-to-eat (RTE) and partially heat-treated meat and poultry products, and measures, including testing, to control Listeria monocytogenes in RTE products. The performance standards spell out the objective level of pathogen reduction that establishments must meet during their operations in order to produce safe products, but allow the use of customized, plant-specific processing procedures other than those prescribed in the earlier regulations. With HACCP, food safety performance standards give establishments the incentive and flexibility to adopt innovative, science-based food safety processing procedures and controls, while providing objective, measurable standards that can be verified by Agency inspectional oversight. This set of performance standards will include and be consistent with standards already in place for certain ready-to-eat meat and poultry products.

Statement of Need:

Although FSIS routinely samples and tests some ready-to-eat products for the presence of pathogens prior to distribution, there are no specific regulatory pathogen reduction requirements for most of these products. The proposed performance standards are necessary to help ensure

the safety of these products; give establishments the incentive and flexibility to adopt innovative, science-based food safety processing procedures and controls; and provide objective, measurable standards that can be verified by Agency oversight.

Summary of Legal Basis:

Under the Federal Meat Inspection Act (21 U.S.C. 601 to 695) and the Poultry Product Inspection Act (21 U.S.C. 451 to 470), FSIS issues regulations governing the production of meat and poultry products prepared for distribution in commerce. The regulations, along with FSIS inspection programs, are designed to ensure that meat and poultry products are safe, not adulterated, and properly marked, labeled, and packaged.

Alternatives:

As an alternative to all of the proposed requirements, FSIS considered taking no action. As alternatives to the proposed performance standard requirements, FSIS considered end-product testing and requiring ''use-by'' date labeling on ready-to-eat products.

Anticipated Cost and Benefits:

Benefits are expected to result from fewer contaminated products entering commercial food distribution channels as a result of improved sanitation and process controls and in-plant verification. FSIS believes that the benefits of the rule would exceed the total costs of implementing its provisions. FSIS currently estimates net benefits from the 2003 interim final rule at $470 to $575 million, with annual recurring costs at $150.4 million, if FSIS discounts the capital cost at 7 percent. FSIS is continuing to analyze the potential impact of the other provisions of the proposal.

The other main provisions of the proposed rule are: Lethality performance standards for Salmonella and E. coli O157:H7 and stabilization performance standards for C. perfringens that firms must meet when producing RTE meat and poultry products. Most of the costs of these requirements would be associated with one-time process performance validation in the first year of implementation of the rule and with revision of HACCP plans. Benefits are expected to result from the entry into commercial food distribution channels of product with lower levels of contamination resulting from improved in-plant process verification and sanitation. Consequently, there will be fewer cases of foodborne illness.

Risks:

Before FSIS published the proposed rule, FDA and FSIS had estimated that each year L. monocytogenes caused 2,540 cases of foodborne illness, including 500 fatalities. The Agencies estimated that about 65.3 percent of these cases, or 1660 cases and 322 deaths per year, were attributable to RTE meat and poultry products. The analysis of the interim final rule on control of L. monocytogenes conservatively estimated that implementation of the rule would lead to an annual reduction of 27.3 deaths and 136.7 illnesses at the median. FSIS is continuing to analyze data on production volume and Listeria controls in the RTE meat and poultry products industry and is using the FSIS risk assessment model for L. monocytogenes to determine the likely risk reduction effects of the rule. Preliminary results indicate that the risk reductions being achieved are substantially greater than those estimated in the analysis of the interim rule.

FSIS is also analyzing the potential risk reductions that might be achieved by implementing the lethality and stabilization performance standards for products that would be subject to the proposed rule. The risk reductions to be achieved by the proposed rule and that are being achieved by the interim rule are intended to contribute to the Agency's public health protection effort.

Timetable:

Action	Date	FR Cite
NPRM	02/27/01	66 FR 12590
NPRM Comment Period End	05/29/01	
NPRM Comment Period Extended	07/03/01	66 FR 35112
NPRM Comment Period End	09/10/01	
Interim Final Rule	06/06/03	68 FR 34208
Interim Final Rule Effective	10/06/03	
Interim Final Rule Comment Period End	01/31/05	
NPRM Comment Period Reopened	03/24/05	70 FR 15017
NPRM Comment Period End	05/09/05	
Affirmation of Interim Final Rule	03/00/11	
Final Action	06/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—FSIS

22. NUTRITION LABELING OF SINGLE–INGREDIENT PRODUCTS AND GROUND OR CHOPPED MEAT AND POULTRY PRODUCTS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

21 USC 601 et seq; 21 USC 451 et seq

CFR Citation:

9 CFR 317; 9 CFR 381

Legal Deadline:

None

Abstract:

FSIS has proposed to amend the Federal meat and poultry products inspection regulations to require nutrition labeling for the major cuts of single-ingredient, raw meat and poultry products, either on their label or at their point-of-purchase, unless an exemption applies. FSIS also proposed to require nutrition information on the label of ground or chopped meat and poultry products, unless an exemption applies. The requirements for ground or chopped products will be consistent with those for multi-ingredient products.

FSIS also proposed to amend the nutrition labeling regulations to provide that when a ground or chopped product does not meet the regulatory criteria to be labeled ''low fat,'' a lean percentage claim may be included on the label or in labeling, as long as a statement of the fat percentage also is displayed on the label or in labeling.

Statement of Need:

The Agency will require that nutrition information be provided for the major

cuts of single-ingredient, raw meat and poultry products, either on their label or at their point of purchase, because during the most recent surveys of retailer, the Agency did not find significant participation in the voluntary nutrition labeling program for single-ingredient, raw meat and poultry products. Ground or chopped products are similar to multi-ingredient products. This rule is necessary so that consumers can have the information they need to construct healthy diets.

Summary of Legal Basis:

This action is authorized under the Federal Meat Inspection Act (21 U.S.C. 601 to 695) and the Poultry Products Inspection Act (21 U.S.C. 451 to 470).

Alternatives:

No action; nutrition labels required on all single-ingredient, raw products (major cuts and non-major cuts) and all ground or chopped products; nutrition labels required on all major cuts of single-ingredient, raw products (but not non-major cuts) and all ground or chopped products; nutrition information at the point of purchase required for all single-ingredient, raw products (major and non-major cuts) and for all ground or chopped products.

Anticipated Cost and Benefits:

Cost will include the equipment for making labels, labor, and materials used for labels for ground or chopped products. The cost of providing nutrition labeling for the major cuts of single-ingredient, raw meat and poultry products should not be significant, because retail establishments would have the option of providing nutrition information through point-of-purchase materials.

Benefits of the nutrition labeling rule would result consumers modify their diets in response to new nutrition information concerning ground or chopped products and the major cuts of single-ingredient, raw products. Reductions in consumption of fat and cholesterol are associated with reduced incidence of cancer and coronary heart disease.

FSIS has concluded that the quantitative benefits will exceed the quantitative costs of the supplemental proposed rule. FSIS estimates that the annualized benefits of the proposed rule will range from approximately $185.6 to $230.8 million, using a 7 percent discount rate over 20 years. FSIS estimates that the annualized costs will range from approximately $26.7 to $44.8 million, using a 7 percent discount rate over 20 years.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	01/18/01	66 FR 4970
NPRM Comment Period End	04/18/01	
Extension of Comment Period	04/20/01	66 FR 20213
NPRM Comment Period End	07/17/01	
Supplemental Proposed Rule	12/18/09	74 FR 67736
Supplemental Proposed Rule Comment Period End	02/16/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—FSIS

23. NOTIFICATION, DOCUMENTATION, AND RECORDKEEPING REQUIREMENTS FOR INSPECTED ESTABLISHMENTS

Priority:

Other Significant

Legal Authority:

21 USC 612 to 613; 21 USC 459

CFR Citation:

9 CFR 417.4; 9 CFR 418

Legal Deadline:

None

Abstract:

The Food Safety and Inspection Service (FSIS) has proposed to require establishments subject to inspection under the Federal Meat Inspection Act and the Poultry Products Inspection Act to promptly notify the Secretary of Agriculture that an adulterated or misbranded product received by or originating from the establishment has entered into commerce, if the establishment believes or has reason to believe that this has happened. FSIS has also proposed to require these establishments to: (1) Prepare and maintain current procedures for the recall of all products produced and shipped by the establishment and (2) document each reassessment of the process control plans of the establishment.

Statement of Need:

The Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246, sec. 11017), known as the 2008 Farm Bill, amended the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) to require establishments subject to inspection under these Acts to promptly notify the Secretary that an adulterated or misbranded product received by or originating from the establishment has entered into commerce, if the establishment believes or has reason to believe that this has happened. Section 11017 also requires establishments subject to inspection under the FMIA and PPIA to: (1) Prepare and maintain current procedures for the recall of all products produced and shipped by the establishment; and (2) document each reassessment of the process control plans of the establishment.

Summary of Legal Basis:

21 U.S.C. 612 and 613; 21 U.S.C. 459, and Public Law 110-246, sec. 11017.

Alternatives:

The option of no rulemaking is unavailable.

Anticipated Cost and Benefits:

Approximate costs: $5.0 million for labor and costs; $5.2 million for first year costs; $0.7 million average costs adjusted with a 3.0 percent inflation rate for following years. Total approximate costs: $10.2 million. The average cost of this final rule to small entities is expected to be less than one tenth of one cent of meat and poultry food products per annum. Therefore, FSIS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Approximate benefits: Benefits have not been monetized because quantified data

on benefits attributable to this final rule are not available. Non-monetary benefits include improved protection of the public health, improved HACCP plans, and improved recall effectiveness.

Risks:

In preparing regulations on the shipment of adulterated meat and poultry products by meat and poultry establishments, the preparation and maintenance of procedures for recalled products produced and shipped by establishments, and the documentation of each reassessment of the process control plans by the establishment, the Agency considered any risks to public health or other pertinent risks associated with these actions.

Timetable:

Action	Date	FR Cite
NPRM	03/25/10	75 FR 14361
NPRM Comment Period End	05/24/10	
Final Action	09/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—FSIS

24. FEDERAL–STATE INTERSTATE SHIPMENT COOPERATIVE INSPECTION PROGRAM

Priority:

Other Significant

Legal Authority:

PL 110–246, sec 11015

CFR Citation:

Not Yet Determined

Legal Deadline:

Final, Statutory, December 18, 2009.

Abstract:

FSIS has proposed regulations to implement a new voluntary Federal-State cooperative inspection program under which State-inspected establishments with 25 or fewer employees would be eligible to ship meat and poultry products in interstate commerce. State-inspected establishments selected to participate in this program would be required to comply with all Federal standards under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA). These establishments would receive inspection services from State inspection personnel that have been trained and certified to assist with enforcement of the FMIA and PPIA. Meat and poultry products produced under the program that have been inspected and passed by selected State-inspection personnel would bear a Federal mark of inspection. FSIS is proposing these regulations in response to the Food, Conservation, and Energy Act, enacted on June 18, 2008 (the 2008 Farm Bill). Section 11015 of 2008 Farm Bill provides for the interstate shipment of State-inspected meat and poultry product from selected establishments and requires that FSIS promulgate implementing regulations no later than 18 months from the date of its enactment.

Statement of Need:

This action is needed to implement a new Federal-State cooperative program that will permit certain State-inspected establishments to ship meat and poultry products in interstate commerce. Inspection services for establishments selected to participate in the program will be provided by State inspection personnel that have been trained and certified in the administration and enforcement of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 et seq.) Meat and poultry products produced by establishments selected to participate in the program will bear a Federal mark of inspection.

Summary of Legal Basis:

This action is authorized under section 11015 of the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill) (Pub. L. 110-246). Section 11015 amends the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 et seq.) to establish an optional Federal-State cooperative program under which State-inspected establishments would be permitted to ship meat and poultry products in interstate commerce. The law requires that FSIS promulgate implementing regulations no later than 18 months after the date of enactment.

Alternatives:

1. No action: FSIS did not consider the alternative of no action because section 11015 of the 2008 Farm Bill requires that it promulgate regulations to implement the new Federal-State cooperative program. The Agency did consider alternatives on how to implement the new program.

2. Limit participation in the program to State-inspected establishments with 25 or fewer employees on average: Under the law, State-inspected establishments that have 25 or fewer employees on average are permitted to participate in the program. The law also provides that FSIS may select establishments that employ more than 25 but fewer than 35 employees on average as of June 18, 2008 (the date of enactment), to participate in the program. Under the law, if these establishments employ more than 25 employees on average 3 years after FSIS promulgates implementing regulations, they are required to transition to a Federal establishment. FSIS rejected the option of limiting the program to establishment that employ 25 or fewer employees on average to give additional small establishments the opportunity to participate in the program and ship their meat and poultry products in interstate commerce.

3. Permit establishments with 25 to 35 employees on average as of June 18, 2008, to participate in the program. FSIS chose the option of permitting these establishments to be selected to participate in the program to give additional small establishments the opportunity to ship their meat and poultry products in interstate commerce. Under this option, FSIS will develop a procedure to transition any establishment that employs more than 25 people on average to a Federal establishment. Establishments that employee 24 to 35 employees on average as of June 18, 2008, would be subject to the transition procedure beginning on the date 3 years after the Agency promulgates implementing regulations.

Anticipated Cost and Benefits:

FSIS is analyzing the costs of this proposed rule to industry, FSIS, State and local governments, small entities, and foreign countries. Participation in

the new Federal-State cooperative program will be optional. Thus, the costs and benefits associated with the proposed rule will depend on the number of States and establishments that choose to participate. Very small and certain small establishments State-inspected establishments that are selected to participate in the program are likely to benefit from the program because they will be permitted sell their products to consumers in other States and foreign countries.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	09/16/09	74 FR 47648
NPRM Comment Period End	12/16/09	
Final Action	05/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal, State

Federalism:

This action may have federalism implications as defined in EO 13132.

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USDA—Rural Business-Cooperative Service (RBS)

FINAL RULE STAGE

25. ● VALUE–ADDED PRODUCER GRANT PROGRAM

Priority:

Other Significant

Legal Authority:

PL 110–246

CFR Citation:

7 CFR 1951, subpart E; 7 CFR 4284, subpart J

Legal Deadline:

None

Abstract:

The Agency proposes to modify 7 CFR part 4284, subpart J, to include the definitions for mid-tier value chain and value-added agricultural product to include an agricultural commodity or product that is aggregated and marketed as a locally produced agricultural food product. Additionally, the proposed rule will expand the grant term not to exceed 3 years; implement a simplified application process for project proposals less than $50,000; provide for priority to projects that increase opportunities for beginning farmers or ranchers, socially disadvantaged farmers or ranchers, and operators of small- and medium sized farms and ranches that are structured as a family farm; and implement a reservation of funds for projects to benefit beginning farmers or ranchers, socially disadvantaged farmers or ranchers, and mid-tier value chains.

The Agency is also proposing to amend 7 CFR part 1951, subpart E, to allow the delegation of the servicing of the program to USDA State Office personnel.

Statement of Need:

The modifications to the Value Added Producer Grant program will streamline program regulations resulting in better quality applications. It is expected that all of the changes will result in time and resource savings to the applicant and the Agency. Publication of the final rule is crucial to program implementation. The program will directly create new businesses, assist with the expansion of existing businesses, create jobs, increase the flow of tax dollars to rural communities, and add lasting value in terms of rural community impact.

Summary of Legal Basis:

The program was authorized by the Agriculture Risk Protection Act of 2000, section 231 (Pub. L. 106-224). The purpose of the Value Added Producer Grant (VAPG) program is to help eligible independent producers of agricultural commodities, agricultural producer groups, farmer and rancher cooperatives, and majority-owned, producer-based business ventures develop business plans for viable marketing opportunities and develop strategies to create marketing opportunities.

Alternatives:

An alternative is to continue under the interim rule. The interim rule is scheduled to be published and remain in effect until a final rule is adopted. A notice announcing FY 2010 funding will be published after the interim rule. FY 2010 funding will be expendable in FY 2011.

Anticipated Cost and Benefits:

Costs:

The anticipated costs associated with this process are contract services. An exact dollar amount cannot be determined at this time, but it will not have an annual effect on the economy of $100 million or more.

No change in FTE needs is anticipated.

Minimal automation changes are anticipated.

Benefits:

The intended action is to fine tune the program regulations, making them easier to use for the public and Agency staff, while incorporate changes designed to reduce the cost to the Government and the subsidy rate.

Risks:

Program risks include risk of loss in the loans guaranteed under this program. We anticipate mitigating these risks with improved regulatory and administrative guidance and appropriate training.

Timetable:

Action	Date	FR Cite
NPRM	05/28/10	75 FR 29920
NPRM Comment Period End	06/28/10	
Interim Final Rule	12/00/10	
Interim Final Rule Effective	01/00/11	
Interim Final Rule Comment Period End	02/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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USDA—Rural Utilities Service (RUS)

FINAL RULE STAGE

26. RURAL BROADBAND ACCESS LOANS AND LOAN GUARANTEES

Priority:

Other Significant

Legal Authority:

PL 107–171; 7 USC 901 et seq

CFR Citation:

7 CFR 1738

Legal Deadline:

None

Abstract:

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act of 2009 (Recovery Act) into law. The essential goal of the Recovery Act is to provide a ''direct fiscal boost to help lift our Nation from the greatest economic crisis in our lifetimes and lay the foundation for future growth.'' The Recovery Act expanded Rural Utilities Service's (RUS') existing authority to make loans and provides new authority to make grants to facilitate broadband deployment in rural areas. RUS has been tasked with the time-sensitive priority of developing the regulation for this new authority. The Agency will, however, also continue to develop a final rule for the Broadband Program as authorized by The Farm Security and Rural Investment Act of 2002, Public Law 107-171 (2002 Farm Bill).

There has been more than $1.7 billion in loans for broadband deployment with more than 1,900 rural communities that will receive broadband services. Even with this level of success, the program needs to be adjusted to better serve unserved or underserved communities. In response, the RUS, an agency of the United States Department of Agriculture, revised the broadband rule to address this and other critical issues, and further facilitate the deployment of broadband service in rural America as directed by Congress by: (1) Clearly defining served and underserved markets based on service availability and existing competitors and target unserved in underserved areas; (2) providing potential applicants with a clear definition of which communities are eligible for funding; (3) establishing a minimum data transmission rate that the facilities financed must be able to deliver to the consumer; (4) establishing equity requirements that mitigate risks; (5) modifying market survey requirements based on service territories and existing availability of service; and (6) imposing new time limits for build-out and deployment to ensure prudent use of loan funds and timely delivery services to rural customers. A proposed rule was published in May 2007 seeking comments from interested parties. Subsequently, the rulemaking process was suspended in light of new statutory requirements provided in the 2008 Farm Bill, thus requiring further rulemaking activities.

Statement of Need:

Since the Broadband Loan Program's inception, the Agency has faced and continues to face significant challenges in administering the program, including the fierce competitive nature of the broadband market, the fact that many companies proposing to offer broadband service are start-up organizations with limited resources, continually evolving technology, and economic factors such as the higher cost of serving rural communities. Because of these challenges, the Agency has been reviewing the characteristics of the Broadband Loan Program and has determined that modifications are required to accelerate the deployment of broadband service to the rural areas of the country.

The Broadband Loan Program is important to the revitalization of our rural communities and their economies. A lack of private capital has been cited as a reason for slow broadband deployment. However, an adequate supply of investment capital alone may not be sufficient to universally deploy broadband facilities in rural America—primarily due to the high cost of deployment outside of more densely populated areas. Due to market uncertainties and risks associated with startup ventures, non-Federal sources of funding are restricting and raising the cost of capital, particularly in costly rural markets. Better access to low-cost capital is a primary initiative of this program in facilitating an increase in the rate of rural broadband deployment.

Summary of Legal Basis:

On May 13, 2002, the Farm Security and Rural Investment Act of 2002, Public Law 107-171 (''2002 Farm Bill''), was signed into law. Title VI of the Farm Bill authorized the Agency to approve loans and loan guarantees for the costs of construction, improvement, and acquisition of facilities and equipment for broadband service in eligible rural communities. On June 18, 2008, the Food, Conservation, and Energy Act of 2008 (''2008 Farm Bill'') became law, significantly changing the statutory requirements of the Broadband Loan Program. As such, the Agency will be issuing a Interim Rule that implements the statutory changes and requests comment on sections of the rule that were not part of the Proposed Rule published in May 2007.

Anticipated Cost and Benefits:

The program costs associated with lending activity are relatively low. The average subsidy rate since the program's inception is 2.4 percent, or $24,000 in appropriated budget authority for every $1 million in loans. The residents and businesses of rural communities are the beneficiaries. Rural Development is responsible for helping rural America transition from an agricultural base economy to a platform for new business and economic opportunity. Rural Development seeks to leverage its financial resources with private investment to facilitate the development of the changing rural economy. The Broadband Loan Program provides rural America with the platform on which to achieve these goals. With access to the same advanced telecommunications networks as its urban counterparts, especially broadband networks designed to accommodate distance learning, telework, and telemedicine, rural America will eventually see improving educational opportunities, health care, economies, safety and security, and ultimately higher employment. The Agency shares the assessment of Congress, State and local officials, industry representatives, and rural residents that broadband service is a critical component to the future of rural America. The Agency is committed to ensuring that rural America will have access to affordable, reliable, broadband

services, and to provide a healthy, safe and prosperous place to live and work.

Risks:

Building broadband infrastructure in sparsely populated rural communities is very capital intensive. The Broadband Loan Program continues to face risk factors that pose challenges in ensuring that proposed projects can and do deliver robust, affordable broadband services to rural consumers. These factors include the competitive nature of the broadband market, the fact that many companies proposing to offer broadband service are start-up organizations with limited resources, rapidly evolving technology, and economic factors such as the higher cost of serving rural communities. While many of the smallest rural communities understand the importance of broadband infrastructure to their economic development, they often have difficulty attracting service providers to their communities.

Timetable:

Action	Date	FR Cite
NPRM	05/11/07	72 FR 26742
NPRM Comment Period End	07/10/07	
Interim Final Rule	12/00/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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DEPARTMENT OF COMMERCE (DOC)

Statement of Regulatory and Deregulatory Priorities

The President's fiscal year (FY) 2010 Budget details how this Administration plans to lift our economy out of recession and lay a new foundation for long-term growth and prosperity. The Department of Commerce (the ''Department'' or ''Commerce'') is aligning itself to contribute to both of these goals.

Established in 1903, the Department of Commerce is one of the oldest Cabinet-level agencies in the Federal Government. The Department's mission is to create the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and environmental stewardship. Commerce has 12 operating units, which are responsible for managing a diverse portfolio of programs and services, ranging from trade promotion and economic development assistance to broadband and the National Weather Service. The Department currently employs approximately 53,000 people around the world, although this workforce doubled temporarily in 2010, due to the decennial census.

The Department touches Americans daily, in many ways—making possible the daily weather reports and survey research; facilitating technology that all of us use in the workplace and in the home each day; supporting the development, gathering, and transmission of information essential to competitive business; enabling the diversity of companies and goods found in America's and the world's marketplace; and supporting environmental and economic health for the communities in which Americans live.

Commerce has a clear and compelling vision for itself, for its role in the Federal Government, and for its roles supporting the American people, now and in the future. To achieve this vision, the Department works in partnership with businesses, universities, communities, and workers to:

- *Innovate* by creating new ideas through cutting-edge science and technology from advances in nanotechnology, to ocean exploration, to broadband deployment, and by protecting American innovations through the patent and trademark system;
- Support *entrepreneurship and commercialization* by enabling community development and strengthening minority businesses and small manufacturers;
- Maintain U.S. economic *competitiveness* in the global marketplace by promoting exports, ensuring a level playing field for U.S. businesses, and ensuring that technology transfer is consistent with our Nation's economic and security interests;
- Provide effective management and *stewardship* of our Nation's resources and assets to ensure sustainable economic opportunities; and
- Make informed policy decisions and enable better understanding of the economy by providing *accurate economic and demographic data.*

The Department is a vital resource base, a tireless advocate, and Cabinet-level voice for job creation.

The Regulatory Plan tracks the most important regulations that implement these policy and program priorities, several of which involve regulation of the private sector by the Department.

Responding to the Administration's Regulatory Philosophy and Principles

The vast majority of the Department's programs and activities do not involve regulation. Of the Department's 12 primary operating units, only the National Oceanic and Atmospheric Administration (NOAA) will be planning actions that are considered the ''most important'' significant preregulatory or regulatory actions for FY 2010. During the next year, NOAA plans to publish four rulemaking actions that are designated as Regulatory Plan actions. Further information on these actions is provided below.

The Department has a long-standing policy to prohibit the issuance of any regulation that discriminates on the basis of race, religion, gender, or any other suspect category and requires that all regulations be written so as to be understandable to those affected by them. The Secretary also requires that the Department afford the public the maximum possible opportunity to participate in departmental rulemakings, even where public participation is not required by law.

National Oceanic and Atmospheric Administration

NOAA establishes and administers Federal policy for the conservation and management of the Nation's oceanic, coastal, and atmospheric resources. It provides a variety of essential environmental and climate services vital to public safety and to the Nation's economy, such as weather forecasts, drought forecasts, and storm warnings. It is a source of objective information on the state of the environment. NOAA plays the lead role in achieving the departmental goal of promoting stewardship by providing assessments of the global environment.

Recognizing that economic growth must go hand-in-hand with environmental stewardship, the Department, through NOAA, conducts programs designed to provide a better understanding of the connections between environmental health, economics, and national security. Commerce's emphasis on ''sustainable fisheries'' is designed to boost long-term economic growth in a vital sector of the U.S. economy while conserving the resources in the public trust and minimizing any economic dislocation necessary to ensure long-term economic growth. The Department is where business and environmental interests intersect, and the classic debate on the use of natural resources is transformed into a ''win-win'' situation for the environment and the economy.

Three of NOAA's major components, the National Marine Fisheries Services (NMFS), the National Ocean Service (NOS), and the National Environmental Satellite, Data, and Information Service (NESDIS), exercise regulatory authority.

NMFS oversees the management and conservation of the Nation's marine fisheries, protects threatened and endangered marine and anadromous species and marine mammals, and promotes economic development of the U.S. fishing industry. NOS assists the coastal States in their management of land and ocean resources in their coastal zones, including estuarine research reserves; manages the Nation's national marine sanctuaries; monitors marine pollution; and directs the national program for deep-seabed minerals and ocean thermal energy. NESDIS administers the civilian weather satellite program and licenses private organizations to operate commercial land-remote sensing satellite systems.

The Department, through NOAA, has a unique role in promoting stewardship of the global environment through effective management of the Nation's marine and coastal resources and in monitoring and predicting changes in the Earth's environment, thus linking trade, development, and technology with environmental issues. NOAA has the primary Federal responsibility for providing sound scientific observations,

assessments, and forecasts of environmental phenomena on which resource management, adaptation, and other societal decisions can be made.

In the environmental stewardship area, NOAA's goals include: Rebuilding and maintaining strong U.S. fisheries by using market-based tools and ecosystem approaches to management; increasing the populations of depleted, threatened, or endangered species and marine mammals by implementing recovery plans that provide for their recovery while still allowing for economic and recreational opportunities; promoting healthy coastal ecosystems by ensuring that economic development is managed in ways that maintain biodiversity and long-term productivity for sustained use; and modernizing navigation and positioning services. In the environmental assessment and prediction area, goals include: Understanding climate change science and impacts, and communicating that understanding to government and private sector stakeholders enabling them to adapt; continually improving the National Weather Service; implementing reliable seasonal and interannual climate forecasts to guide economic planning; providing science-based policy advice on options to deal with very long-term (decadal to centennial) changes in the environment; and advancing and improving short-term warning and forecast services for the entire environment.

Magnuson-Stevens Fishery Conservation and Management Act

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) rulemakings concern the conservation and management of fishery resources in the U.S. Exclusive Economic Zone (generally 3-200 nautical miles). Among the several hundred rulemakings that NOAA plans to issue in fiscal year 2010, a number of the preregulatory and regulatory actions will be significant. The exact number of such rulemakings is unknown, since they are usually initiated by the actions of eight regional Fishery Management Councils (FMCs) that are responsible for preparing fishery management plans (FMPs) and FMP amendments, and for drafting implementing regulations for each managed fishery. NOAA issues regulations to implement FMPs and FMP amendments. Once a rulemaking is triggered by an FMC, the Magnuson-Stevens Act places stringent deadlines upon NOAA by which it must exercise its rulemaking responsibilities. FMPs and FMP amendments for Atlantic highly migratory species, such as bluefin tuna, swordfish, and sharks, are developed directly by NOAA, not by FMCs.

FMPs address a variety of issues including maximizing fishing opportunities on healthy stocks, rebuilding overfished stocks, and addressing gear conflicts. One of the problems that FMPs may address is preventing overcapitalization (preventing excess fishing capacity) of fisheries. This may be resolved by market-based systems such as catch shares, which permit shareholders to harvest a quantity of fish and which can be traded on the open market. Harvest limits based on the best available scientific information, whether as a total fishing limit for a species in a fishery or as a share assigned to each vessel participant, enable stressed stocks to rebuild. Other measures include staggering fishing seasons or limiting gear types to avoid gear conflicts on the fishing grounds and establishing seasonal and area closures to protect fishery stocks.

The FMCs provide a forum for public debate and, using the best scientific information available, make the judgments needed to determine optimum yield on a fishery-by-fishery basis. Optional management measures are examined and selected in accordance with the national standards set forth in the Magnuson-Stevens Act. This process, including the selection of the preferred management measures, constitutes the development, in simplified form, of an FMP. The FMP, together with draft implementing regulations and supporting documentation, is submitted to NMFS for review against the national standards set forth in the Magnuson-Stevens Act, in other provisions of the Act, and other applicable laws. The same process applies to amending an existing approved FMP.

Marine Mammal Protection Act

The Marine Mammal Protection Act of 1972 (MMPA) provides the authority for the conservation and management of marine mammals under U.S. jurisdiction. It expressly prohibits, with certain exceptions, the take of marine mammals. Exceptions allow for permitting the collection of wild animals for scientific research or public display or to enhance the survival of a species or stock. NMFS initiates rulemakings under the MMPA to establish a management regime to reduce marine mammal mortalities and injuries as a result of interactions with fisheries. The Act also established the Marine Mammal Commission, which makes recommendations to the Secretaries of the Departments of Commerce and the Interior and other Federal officials on protecting and conserving marine mammals. The Act underwent significant changes in 1994 to allow for takings incidental to commercial fishing operations, to provide certain exemptions for subsistence and scientific uses, and to require the preparation of stock assessments for all marine mammal stocks in waters under U.S. jurisdiction.

Endangered Species Act

The Endangered Species Act of 1973 (ESA) provides for the conservation of species that are determined to be ''endangered'' or ''threatened,'' and the conservation of the ecosystems on which these species depend. The ESA authorizes both NMFS and the Fish and Wildlife Service (FWS) to jointly administer the provisions of the Act. NMFS manages marine and ''anadromous'' species, and FWS manages land and freshwater species. Together, NMFS and FWS work to protect critically imperiled species from extinction. Of the 1,310 listed species found in part or entirely in the United States and its waters, NMFS has jurisdiction over approximately 60 species. NMFS' rulemaking actions are focused on determining whether any species under its responsibility is an endangered or threatened species and whether those species must be added to the list of protected species. NMFS is also responsible for designating, reviewing, and revising critical habitat for any listed species. In addition, under the ESA's procedural framework, Federal agencies consult with NMFS on any proposed action authorized, funded, or carried out by that agency that may affect one of the listed species or designated critical habitat, or is likely to jeopardize proposed species or adversely modify proposed critical habitat that is under NMFS' jurisdiction.

NOAA's Regulatory Plan Actions

While most of the rulemakings undertaken by NOAA do not rise to the level necessary to be included in the Department's regulatory plan, NMFS is undertaking four actions that rise to the level of ''most important'' of the Department's significant regulatory actions and thus are included in this year's regulatory plan. The four actions implement provisions of the Magnuson-Stevens Fishery Conservation and Management Act, as reauthorized in 2006. The first action may be of

particular interest to international trading partners as it concerns the Certification of Nations Whose Fishing Vessels are Engaged in Illegal, Unreported, or Unregulated Fishing or Bycatch of Protected Living Marine Resources. A description of the four regulatory plan actions is provided below.

1. Certification of Nations Whose Fishing Vessels Are Engaged in Illegal, Unreported, or Unregulated Fishing or Bycatch of Protected Living Marine Resources (0648-AV51). NOAA's NMFS is establishing a process of identification and certification to address illegal, unreported, or unregulated (IUU) activities and bycatch of protected species in international fisheries. Nations whose fishing vessels engage, or have been engaged, in IUU fishing would be identified in a biennial report to Congress, as required under section 403 of the Magnuson-Stevens Fishery Conservation and Management Act. NMFS would subsequently certify whether identified nations have taken appropriate corrective action with respect to the activities of its fishing vessels.
2. Pacific Coast Groundfish Trawl Rationalization Program—Program Components Rulemaking (0648-AY68): Due to the complexity of the fishery management measures, NMFS is implementing the Pacific Coast Groundfish Trawl Rationalization Program through multiple rulemakings. A previous rulemaking (i.e., the Initial Issuance rule) creates and issues quota shares to qualified participants and establishes an appeals process. The program components rulemaking would implement the second phase of the trawl rationalization program. In particular, this rulemaking includes requirements for observers and compliance monitors, retention requirements, coop permits and agreements, first receiver site licenses, vessel accounts and mandatory economic data collection.
3. Designation of Critical Habitat for Cook Inlet Beluga Whale (0648-AX50): This rule would designate critical habitat in two areas of Cook Inlet totaling 3,016 square miles. Critical habitat would include intertidal and subtidal waters near high and medium flow anadromous fish streams. The deadline for publication is October 20, 2010.
4. Critical Habitat for North Atlantic Right Whales **(**0648-AY54**):** Northern right whales have been listed as endangered since 1973. In 2008, NOAA removed Northern right whales from the list of endangered species and replaced it with two separate species (North Pacific and North Atlantic right whales). NOAA had designated critical habitat for Northern right whales but has not yet designated critical habitat for the new North Atlantic right whale species. Several environmental groups threaten litigation over the failure to designate critical habitat for the species listed in 2008. NOAA is discussing a possible schedule for critical habitat designation that would avoid litigation.

At this time, NOAA is unable to determine the aggregate cost of the identified Regulatory Plan actions as several of these actions are currently under development.

Bureau of Industry and Security

The Bureau of Industry and Security (BIS) advances U.S. national security, foreign policy, and economic objectives by maintaining and strengthening an adaptable, efficient, and effective export control and treaty compliance systems. BIS also administers programs to prioritize certain contracts to promote the national defense and to protect and enhance the defense industrial base.

In August 2009, the President directed a broad-based interagency review of the U.S. export control system with the goal of strengthening national security and the competitiveness of key U.S. manufacturing and technology sectors by focusing on the current threats and adapting to the changing economic and technological landscape. In August 2010, the President outlined an approach under which agencies that administer export controls will apply new criteria for determining what items need to be controlled and a common set of policies for determining when an export license is required. The control list criteria are to be based on transparent rules, which will reduce the uncertainty faced by our Allies, U.S. industry, and its foreign partners, and will allow the government to erect higher walls around the most sensitive items in order to enhance national security.

Under the President's approach, agencies will apply the criteria and revise the lists of munitions and dual use items that are controlled for export so that they:

- Are ''tiered'' to distinguish the types of items that should be subject to stricter or more permissive levels of control for different destinations, end-uses, and end-users;
- Create a ''bright line'' between the two current control lists to clarify jurisdictional determinations and reduce government and industry uncertainty about whether particular items are subject to the control of the State Department or the Commerce Department; and
- Are structurally aligned so that they potentially can be combined into a single list of controlled items.

BIS' current regulatory plan action is designed to implement the initial phase of the President's directive.

Major Programs and Activities

BIS administers four sets of regulations. The Export Administration Regulations (EAR) regulate exports and reexports to protect national security, foreign policy, and short supply interests. The EAR also regulate participation of U.S. persons in certain boycotts administered by foreign governments. The National Defense Industrial Base Regulations provide for prioritization of certain contracts and allocations of resources to promote the national defense, require reporting of foreign government imposed offsets in defense sales, and address the effect of imports on the defense industrial base. The Chemical Weapons Convention Regulations implement declaration, reporting, and on-site inspection requirements in the private sector necessary to meet United States treaty obligations under Chemical Weapons Convention treaty. The Additional Protocol Regulations implement similar requirements with respect to an agreement between the United States and the International Atomic Energy Agency.

BIS also has an enforcement component with eight field offices in the United States. BIS export control officers are stationed at several U.S. embassies and consulates abroad. BIS works with other U.S. Government agencies to promote coordinated U.S. Government efforts in export controls and other programs. BIS participates in U.S. Government efforts to strengthen multilateral export control regimes and to promote effective export controls through cooperation with other governments.

BIS' Regulatory Plan Actions

As the agency responsible for leading administration and enforcement of the

U.S. dual-use export control system, BIS is playing a central role in the Administration's efforts to fundamentally reform the export control system. Changing what we control, how we control it and how we enforce and manage our controls will help strengthen our national security by focusing our efforts on controlling the most critical products and technologies and by enhancing the competitiveness of key U.S. manufacturing and technology sectors. In accordance with the President's directive to develop a system that is tiered to distinguish the types of items that should be subject to stricter or more permissive levels of control for different destinations, end-uses, and end-users, BIS is developing a rule to implement an Export Control Tier Based License Exception. This rule would allow certain dual-use items to be exported and reexported with conditions to specific countries without a license that would otherwise be required.

BIS will also be developing other rules to implement additional aspects of the export control reform as those aspects are identified and decided.

International Trade Administration

The International Trade Administration (ITA) assists in the development of U.S. trade policy in the global economy; creates jobs and economic growth by promoting U.S. companies; strengthens American competitiveness across all industries; addresses market access and compliance issues; administers U.S. trade laws; and undertakes a range of trade promotion and trade advocacy efforts.

Import Administration

The Import Administration (IA) is the ITA's lead unit on enforcing trade laws and agreements to prevent unfairly traded imports and to safeguard jobs and the competitive strength of American industry. From working to resolve disputes to implementing measures when violations are found, we are there to protect U.S. companies from unfair trade practices.

The primary role of IA is to enforce effectively the U.S. unfair trade laws (i.e., the antidumping duty (AD) and countervailing duty (CVD) laws) and to develop and implement other policies and programs aimed at countering foreign unfair trade practices. IA also administers the Foreign Trade Zones program, the Statutory Import Program and certain sector-specific agreements and programs, such as the Textiles and Apparel Program and the Steel Import Monitoring and Analysis licensing system.

AD proceedings focus on whether foreign producers/exporters are selling their merchandise in the United States at less than fair value. CVD proceedings focus on whether foreign producers/exporters are benefitting from subsidies provided by their governments. Parties who participate in AD/CVD proceedings include U.S. manufacturers, U.S. importers, and foreign exporters and manufacturers, some of whom are affiliated with U.S. companies.

ITA's Regulatory Plan Actions

IA is developing a rule entitled, ''Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures'' to implement an electronic filing and records management system called IA's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). The Department's regulations currently require parties to submit multiple copies of a public document, and additional copies if the document contains business proprietary information. Alternatively, under the current regulations, if a document contains business proprietary information, a party must submit one hard copy original and five hard copies of a business proprietary document and three copies of a public version. The proposed rule will require interested parties to use IA ACCESS to file submissions electronically, unless an exception for manual, hard copy filing is applicable. If a document must be filed manually, the proposed rule also reduces the required number of copies for manual submissions such that only one paper copy of the submission will need to be filed with the Department.

In addition to electronic filing, the goal of the IA ACCESS system is to expand the public's access to information in AD/CVD proceedings by making all publicly filed documents available on the internet. It will also allow interested parties to file all submissions (both public and business proprietary) with the Department using an internet connection. The Department envisions that such a system will create efficiencies in both the process and costs associated with filing and maintaining the documents. The ease of document submission will increase accessibility of submission to the Department by interested parties located within and outside the Washington, DC area.

Foreign-Trade Zones Board

The Foreign-Trade Zones (FTZ) Board is an interagency board composed of the Secretary of Commerce and the Secretary of the Treasury. The Secretary of Commerce is the chairman of the Board. The FTZ Board administers the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. section 81a et seq.) (FTZ Act).

Major Program and Activities

The FTZ Board administers the FTZ program of the United States, pursuant to the FTZ Act and the FTZ regulations, codified at 15 CFR part 400. FTZs are restricted-access sites in or near U.S. Customs and Border Protection (CBP) ports of entry licensed by the FTZ Board and operated under the supervision of CBP. FTZs are locations into which foreign and domestic merchandise may be moved for operations involving storage, exhibition, assembly, manufacture, or other processing not prohibited by law. FTZs are considered outside of U.S. customs territory, which means that the usual customs entry procedures and payment of duties are not required on foreign merchandise admitted into an FTZ unless and until that merchandise enters U.S. customs territory for domestic consumption.

The fact that FTZs are considered outside of U.S. customs territory makes them a valuable resource for many businesses. An FTZ user can avoid payment of U.S. customs duties on foreign merchandise admitted into an FTZ and then re-exported after further processing or manufacturing. Further, in some circumstances an FTZ user can admit foreign merchandise into an FTZ for use in manufacturing, and then, upon entry of the manufactured product into the U.S. customs territory, pay customs duties at the rate for the manufactured product. This can result in significant duty savings. Therefore, the FTZ program encourages retention of employment in the United States and promotion of export activity.

The FTZ Board reviews and approves applications for authority to establish FTZs and to conduct certain activity within FTZs. It has the authority to restrict or prohibit activity in FTZs. Under the FTZ Act, FTZs must be operated under public utility principles and provide uniform treatment to all that apply to use the FTZ. The FTZ Board ensures that FTZs are operated in the public interest.

The FTZ Board's Regulatory Plan Actions

The FTZ Board is in the process of revising its regulations, which have been in effect since 1990, in a proposed rule entitled, ''Foreign-Trade Zones in the United States.'' The new proposed rule was sent to OMB for review on August 31, 2010 (RIN 0625-AA81). The proposed rule will streamline application procedures and improve access to FTZs. For example, the FTZ Board is proposing to eliminate the need for advance Board approval of many types of manufacturing operations. This will allow businesses, including small businesses, to take advantage of manufacturing opportunities in FTZs more quickly and more in keeping with the pace of modern business, because they will not need to wait through the sometimes lengthy application process. Further, the proposed rule will provide guidance on the FTZ Act's requirements that FTZs be operated as public utilities with uniform access to all users. This aspect of the proposed rule will improve access to the job-retention and export-promotion benefits of FTZs. The proposed rule also will provide greater clarity on various other aspects of the FTZ program, such as the FTZ Board's statutory fining authority.

DOC—National Oceanic and Atmospheric Administration (NOAA)

PROPOSED RULE STAGE

27. DESIGNATION OF CRITICAL HABITAT FOR THE NORTH ATLANTIC RIGHT WHALE

Priority:

Other Significant

Legal Authority:

16 USC 1361 et seq; 16 USC 1531 to 1543

CFR Citation:

50 CFR 226; 50 CFR 229

Legal Deadline:

None

Abstract:

In June 1970, the Northern right whale was listed as endangered under the Endangered Species Conservation Act, the precursor to the Endangered Species Act (ESA)(35 FR 8495; codified at 50 CFR 17.11). Subsequently, right whales were listed as endangered under the ESA in 1973, and as depleted under the Marine Mammal Protection Act (MMPA) the same year. In 1994, NMFS designated critical habitat for the Northern right whale, a single species thought at the time to include right whales in both the North Atlantic and the North Pacific.

In 2006, NMFS published a comprehensive right whale status review that concluded that recent genetic data provided unequivocal support to distinguish three right whale lineages (including the southern right whale) as separate phylogenetic species (Rosenbaum et al. 2000). Rosenbaum et al. (2000) concluded that the right whale should be regarded as the following three separate species: (1) The North Atlantic right whale (Eubalaena glacialis) ranging in the North Atlantic Ocean; (2) the North Pacific right whale (Eubalaena japonica), ranging in the North Pacific Ocean; and (3) the southern right whale (Eubalaena australis), historically ranging throughout the southern hemisphere's oceans.

Based on these findings, NMFS published a proposed and final determination listing right whales in the North Atlantic and North Pacific as separate endangered species under the ESA (71 FR 77704, December 27, 2006; 73 FR 12024, March 6, 2008). Based on the new listing determination, NMFS is required by the ESA to designate critical habitat separately for both the North Atlantic right whale and the North Pacific right whale.

In April 2008, a final critical habitat determination was published for the North Pacific right whale (73 FR 19000; April 8, 2008). At this time, NMFS is preparing a proposal to designate critical habitat for the North Atlantic right whale.

Statement of Need:

In June 1970, the Northern right whale was listed as endangered under the Endangered Species Conservation Act, the precursor to the Endangered Species Act (ESA)(35 FR 8495; codified at 50 CFR 17.11). Subsequently, right whales were listed as endangered under the ESA in 1973 and as depleted under the Marine Mammal Protection Act (MMPA) the same year. In 1994, NMFS designated critical habitat for the Northern right whale, a single species thought at the time to include right whales in both the North Atlantic and the North Pacific.

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In April 2008, a final critical habitat determination was published for the North Pacific right whale (73 FR 19000; April 8, 2008). At this time, NMFS is preparing a proposal to designate critical habitat for the North Atlantic right whale.

Summary of Legal Basis:

Endangered Species Act

Alternatives:

Because this rule is presently in the beginning stages of development, no alternatives have been formulated or analyzed at this time.

Anticipated Cost and Benefits:

Because this rule is presently in the beginning stages of development, no analysis has been completed at this time to assess costs and benefits.

Risks:

Loss of critical habitat for a species listed as protected under the ESA and MMPA, as well as potential loss of right whales due to habitat loss.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

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RIN: 0648–AY54

DOC—NOAA

FINAL RULE STAGE

28. CERTIFICATION OF NATIONS WHOSE FISHING VESSELS ARE ENGAGED IN ILLEGAL, UNREPORTED, AND UNREGULATED FISHING OR BYCATCH OF PROTECTED LIVING MARINE RESOURCES

Priority:

Other Significant

Legal Authority:

16 USC 1801 et seq; 16 USC 1826(d) to 1826(k)

CFR Citation:

50 CFR 300

Legal Deadline:

Final, Statutory, January 12, 2011, Report due to Congress 16 USC 1826h.

Report on countries identified as having vessels engaged in IUU fishing.

Abstract:

The National Marine Fisheries Service (NMFS) is establishing a process of identification and certification to address illegal, unreported, or unregulated (IUU) activities and bycatch of protected species in international fisheries. Nations whose fishing vessels engage, or have been engaged, in IUU fishing or bycatch of protected living marine resources would be identified in a biennial report to Congress, as required under section 403 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) of 2006. NMFS would subsequently certify whether identified nations have taken appropriate corrective action with respect to the activities of its fishing vessels, as required under section 403 of MSRA.

Statement of Need:

The National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) proposes regulations to set forth identification and certification procedures for nations whose vessels engage in illegal, unregulated, and unreported (IUU) fishing activities or bycatch of protected living marine resources pursuant to the High Seas Fishing Moratorium Protection Act (Moratorium Protection Act). Specifically, the Moratorium Protection Act requires the Secretary of Commerce to identify in a biennial report to Congress those foreign nations whose vessels are engaged in IUU fishing or fishing that results in bycatch of protected living marine resources. The Moratorium Protection Act also requires the establishment of procedures to certify whether nations identified in the biennial report are taking appropriate corrective actions to address IUU fishing or bycatch of protected living marine resources by fishing vessels of that nation. Based upon the outcome of the certification procedures developed in this rulemaking, nations could be subject to import prohibitions on certain fisheries products and other measures under the authority provided in the High Seas Driftnet Fisheries Enforcement Act if they are not positively certified by the Secretary of Commerce.

Summary of Legal Basis:

NOAA is proposing these regulations pursuant to its rulemaking authority under sections 609 and 610 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826j and k), as amended by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act.

Alternatives:

NMFS developed alternatives for the Secretary of Commerce to make a positive certification that a nation, once identified as having vessels engaged in illegal, unregulated, and unreported (IUU) fishing, has taken sufficient corrective action against those vessels or is a member of a regional fishery management organization that has adopted effective measures to address the IUU activities. NMFS also developed alternatives for the Secretary of Commerce to make a positive certification that a nation, once identified as having vessels engaged in bycatch of protected living marine resources (PLMR), has adopted a regulatory program to conserve those PLMR that is comparable in effectiveness to the United States and which collects data to support international assessment and conservation efforts.

Anticipated Cost and Benefits:

Because this rule is under development, NMFS does not currently have estimates of the amount of product that is imported into the United States from other nations whose vessels are engaged in illegal, unreported, and unregulated (IUU) fishing or bycatch of protected living marine resources. Therefore, quantification of the economic impacts of this rulemaking is not possible at this time. This rulemaking has not been determined to be economically significant under E.O. 12866; however, it is considered significant because it raises novel or legal or policy issues arising out of legal mandates, the President's Priorities, and the principles set forth in the Executive order.

Risks:

The risks associated with not pursuing the proposed rulemaking include allowing IUU fishing activities and/or bycatch of protected living marine resources by foreign vessels to continue without an effective tool to aid in combating such activities.

Timetable:

Action	Date	FR Cite
ANPRM	06/11/07	72 FR 33436
ANPRM Comment Period End	07/05/07	
NPRM	01/14/09	74 FR 2019
NPRM Comment Period End	05/14/09	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

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Related RIN: Related to 0648–AV23

RIN: 0648–AV51

DOC—NOAA

29. CRITICAL HABITAT DESIGNATION FOR COOK INLET BELUGA WHALE UNDER THE ENDANGERED SPECIES ACT

Priority:

Other Significant

Legal Authority:

16 USC 1531 et seq

CFR Citation:

50 CFR 226

Legal Deadline:

None

Abstract:

The National Marine Fisheries Service (NMFS) listed the Cook Inlet beluga whale Distinct Population Segment as endangered under the Endangered Species Act on October 17, 2009. NMFS is required to designate critical habitat no later than one year after the publication of a listing. NMFS intends to publish a proposed rule by October 17, 2009.

Statement of Need:

The National Marine Fisheries Service (NMFS) listed the Cook Inlet beluga whale Distinct Population Segment as endangered under the Endangered Species Act on October 17, 2009. NMFS is required to designate critical habitat no later than one year after the publication of a listing. NMFS intends to publish a proposed rule by October 17, 2009.

Summary of Legal Basis:

Endangered Species Act

Alternatives:

Alternative 1. No action (status quo): NMFS would not designate critical habitat (CH) in Cook Inlet, Alaska, for the Cook Inlet beluga whale. Conservation and recovery of the listed species would depend exclusively upon the protections provided under the ''jeopardy'' provisions of Section 7 of the ESA.

Alternative 2. Designate Area 1 and Area 2, which encompass all of upper-Cook Inlet, north of a line at 60° 25' north latitude, and portions of mid- and lower-Cook Inlet, extending south along the west side of the Cook Inlet, following the tidal flats into Kamishak Bay to Douglas Reef, between MHHW and waters within two nautical miles of shore. It further includes all waters of Kachemak Bay, eastward of 151° 30' west longitude and seaward of MHHW.

Anticipated Cost and Benefits:

The post-designation incremental costs are estimated to range from $187,000 to $571,000, in present value terms, at a 3 percent discount rate, and from $157,000 to $472,000 at a 7 percent discount rate.

Approximately six Federal action agencies for section 7 consultations are anticipated to bear 70 percent ($398,000) of these costs, while 26 percent ($148,000) are expected to accrue to NMFS, as the consulting agency. The remaining four percent ($25,000) of these costs may be borne by third parties, during the consultations. Of the total costs to Federal action agencies, the DOD is anticipated to bear approximately 76 percent ($302,000). This is followed by USACE (9 percent; $37,000), NMFS (7 percent; $28,000), FERC (7 percent; $28,000), EPA (1 percent; $3,000), and FHWA (less than 1 percent; less than $1,000).

Benefits are qualitative: Area more attractive to workers in various industrial sectors; anticipated conservation and recovery species; and the general stability in associated environs should provide increases in welfare to tourists, recreationists, wildlife watchers, Cook Inlet Ferry passengers, and future cruise ship passengers. This should result in higher revenues for relevant businesses. Other wildlife and fish species will benefit, resulting in overall improvements in commercial, recreational, personal use, and subsistence uses. The increase in Cook Inlet beluga whale populations, in the longer term, will provide more frequent subsistence harvest opportunities to the Alaska Natives and allow future generations to practice their traditional ways. It will enhance passive-use benefits among those who value this species and the myriad elements and aspects of the natural habitat that sustains it. Finally, as the ESA is carried out, there are expected to be scientific and educational benefits to the Nation.

Risks:

Loss of critical habitat for the Cook Inlet beluga whale Distinct Population Segment and connected loss of Cook Inlet beluga whale members.

Timetable:

Action	Date	FR Cite
ANPRM	04/14/09	74 FR 17131
ANPRM Comment Period End	05/14/09	
NPRM	12/02/09	74 FR 63080
NPRM Comment Period Extended	01/12/10	75 FR 1582
NPRM Comment Period End	02/01/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

Federal, Local, State, Tribal

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RIN: 0648–AX50

DOC—NOAA

30. FISHERIES OFF WEST COAST STATES; PACIFIC COAST GROUNDFISH FISHERY; AMENDMENTS 20 AND 21; TRAWL RATIONALIZATION PROGRAM

Priority:

Other Significant

Legal Authority:

16 USC 1801 et seq

CFR Citation:

50 CFR 660

Legal Deadline:

None

Abstract:

The trawl rationalization program creates an individual fishing quota

(IFQ) program for the shore-based trawl fleet; and cooperative (coop) programs for the at-sea trawl fleet in the Pacific Coast Groundfish Fishery. This rulemaking includes regulations to implement Amendments 20 and 21 to the Pacific Coast Groundfish Fishery Management Plan (FMP). Amendment 20 creates the structure and management details of the trawl rationalization program, which would be a limited access privilege program (LAPP) under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), as reauthorized in 2007. Amendment 21, intersector allocation, allocates the groundfish stocks between trawl and non-trawl fisheries.

Statement of Need:

The trawl rationalization program is intended to increase net economic benefits, create individual economic stability, provide full utilization of the trawl sector allocation, consider environmental impacts, and achieve individual accountability of catch and bycatch. This rule would establish the key components that would be necessary to implement the trawl rationalization program at the start of the 2011 fishery.

Summary of Legal Basis:

Section 303A of the Magnuson-Stevens Act.

Alternatives:

The Pacific Fishery Management Council (the Council) prepared two environmental impact statement (EIS) documents: Amendment 20—Rationalization of the Pacific Coast Groundfish Limited Entry Trawl Fishery, which would create the structure and management details of the trawl fishery rationalization program; and Amendment 21—Allocation of Harvest Opportunity Between Sectors of the Pacific Coast Groundfish Fishery, which would allocate the groundfish stocks between trawl and non-trawl fisheries. These EISs covered a range of alternatives. The Regulatory Impact Review and Initial Regulatory Flexibility Analysis (RIR/IRFA) for this rule focuses on the two key alternatives—the No-Action Alternative and the Preferred Alternative. By focusing on the two key alternatives (no action and preferred) in the RIR/IRFA, it encompasses parts of the other alternatives and informs the reader of these proposed regulations. Under the no action alternative, the current, primary management tool used to control the Pacific coast groundfish trawl catch includes a system of two month cumulative landing limits for most species and season closures for Pacific whiting. This management program would continue under the no action alternative. The analysis of the preferred alternative describes what is likely to occur as a result of the proposed action. Under the preferred alternative, the existing shore-based whiting and shore-based non-whiting sectors of the Pacific Coast groundfish limited entry trawl fishery would be managed as one sector under a system of IFQs, and the at-sea whiting sectors of the fishery would be managed under a system of sector-specific harvesting cooperatives (coops).

Anticipated Cost and Benefits:

The RIR/IRFA reviewed and summarized the benefits and costs, and the economic effects of the Council's recommendations. The major conclusions of the economic model suggest that (with landings held at 2004 levels), the current groundfish fleet (non-whiting component), which consisted of 117 vessels in 2004, will be reduced by roughly 50 percent to 66 percent, or 40 to 60 vessels under an IFQ program. The reduction in fleet size implies cost savings of $18 to $22 million for the year 2004 (most recent year of the data). Vessels that remain active will, on average, be more cost efficient and will benefit from economies of scale that are currently unexploited under controlled access regulations in the fishery. The cost savings estimates are significant, amounting to approximately half of the costs incurred currently, suggesting that IFQ management may be an attractive option for the Pacific Coast Groundfish Fishery. The increase in profits that commercial harvesters are expected to experience under the preferred alternative may render them better able to sustain the costs of complying with the new reporting and monitoring requirements. The costs of at-sea observers may reduce profits by about $2.2 million, depending on the fee structure. However, the profits earned by the non-whiting sector would still be substantially higher under the preferred alternative than under the no action alternative.

Risks:

Under the no action alternative, cumulative landing limits for target species have to be set lower because the bycatch of overfished species cannot be directly controlled. Introducing accountability at the individual vessel level by means of IFQs provides a strong incentive for bycatch avoidance.

There will likely be a lower motivation to ''race for fish'' due to coop harvest privileges. This is expected to result in improved product quality, slower-paced harvest activity, increased yield (which should increase ex-vessel prices), and enhanced flexibility and ability for business planning.

Timetable:

Action	Date	FR Cite
Notice of Availability	05/12/10	75 FR 26702
First Proposed Rule	06/10/10	75 FR 32994
First Proposed Rule Correction	06/30/10	75 FR 37744
First Proposed Rule Comment Period End	07/12/10	
Second Proposed Rule	08/31/10	75 FR 53379
Second Proposed Rule Comment Period End	09/30/10	
First Final Rule	10/01/10	75 FR 60868
Second Final Rule	12/00/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

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Related RIN: Related to 0648–AX98

RIN: 0648–AY68

BILLING CODE 3510–12–S

DEPARTMENT OF DEFENSE (DOD)

Statement of Regulatory Priorities

Background

The Department of Defense (DoD) is the largest Federal department consisting of 3 Military departments (Army, Navy, and Air Force), 10 Unified Combatant Commands, 14 Defense agencies, and 10 DoD Field Activities. It has 1,434,761 military personnel and 770,569 civilians assigned as of June 30, 2010, and over 200 large and medium installations in the continental United States, U. S. territories, and foreign countries. The overall size, composition, and dispersion of DoD, coupled with an innovative regulatory program, presents a challenge to the management of the Defense regulatory efforts under Executive Order 12866 ''Regulatory Planning and Review'' of September 30, 1993.

Because of its diversified nature, DoD is affected by the regulations issued by regulatory agencies such as the Departments of Energy, Health and Human Services, Housing and Urban Development, Labor, Transportation, Treasury, Commerce, and State, and the Office of Personnel Management, General Services Administration, and Environmental Protection Agency. In order to develop the best possible regulations that embody the principles and objectives embedded in Executive Order 12866, there must be coordination of proposed regulations among the regulatory agencies and the affected DoD components. Coordinating the proposed regulations in advance throughout an organization as large as DoD is straightforward, yet a formidable undertaking.

DoD is not a regulatory agency, but occasionally it issues regulations that have an effect on the public. These regulations, while small in number compared to the regulating agencies, can be significant as defined in Executive Order 12866. In addition, some of DoD's regulations may affect the regulatory agencies. DoD, as an integral part of its program, not only receives coordinating actions from the regulating agencies, but coordinates with the agencies that are affected by its regulations as well.

Overall Priorities

The Department needs to function at a reasonable cost, while ensuring that it does not impose ineffective and unnecessarily burdensome regulations on the public. The rulemaking process should be responsive, efficient, cost-effective, and both fair and perceived as fair. This is being done in DoD while reacting to the contradictory pressures of providing more services with fewer resources. The Department of Defense, as a matter of overall priority for its regulatory program, fully incorporates the provisions of the President's priorities and objectives under Executive Order 12866.

The Department also participates with GSA, NASA, and OFPP to form the Federal Acquisition Regulatory Council. The FAR Council assists in the direction and coordination of Government wide procurement policy and Government wide procurement regulator activities in the Federal Government (41 U.S.C. 421). Together, DOD, GSA, and NASA jointly issue and maintain the Federal Acquisition Regulation.

Administration Priorities:

1. Rulemakings that promote open Government and that use disclosure as a regulatory tool.

The Department plans to:

- Revise the Federal Acquisition Regulation (FAR) to inform contractors of this statutory requirement to make Federal Awardee Performance and Integrity Information System information, excluding past performance reviews, available to the public;
- Finalize the FAR rule that implements the requirement for reporting first-tier subcontracting data for new contracts using Recovery Act funds; and
- Finalize the FAR rule that implements the Federal Funding Accountability and Transparency Act of 2006, which requires the Office of Management and Budget (OMB) to establish a free, public, website containing full disclosure of all Federal contract award information. This rule requires contractors to report executive compensation and first-tier subcontractor awards on unclassified contracts expected to be $25,000 or more, except contracts with individuals.

2. Rulemakings that simplify or streamline regulations and reduce or eliminate unjustified burdens.

The Department plans to:

- Revise the FAR to delete part 2 of the SF 330, which collects general qualifications data not related to a particular planned contract action. The Online Representations and Certifications Application (ORCA) now collects this data centrally from interested Architect-Engineer vendors at the time they complete the other representations and certifications in ORCA;
- Revise the FAR to incorporate changes from a final Department of Labor rule that removes the requirement to submit complete social security numbers and home addresses of individual workers in weekly payroll submissions. Removal of this personal information from payroll records avoids unnecessary disclosure issues;
- Finalize the revision of DFARS requirements for reporting the loss, theft, damage, or destruction of Government property;
- Review of the DFARS requirements for reporting Government Furnished Equipment and Government Furnished Material in the DoD Item Unique Identification (IUID) registry;
- Remove the DFARS requirement to use DD Forms 2626 and 2631 to report past performance information for construction and architect/engineer services instead of the standard FAR procedures;
- Revise the DFARS to permit offerors to provide alternative line-item structure from that shown in the solicitation to reflect the offeror's business practices for selling and billing commercial items and initial provisioning spares for weapon systems;
- Delete redundant DFARS text that limits placement of orders against contracts with contractors that have been debarred suspended or proposed for debarment. This requirement is now incorporated into the FAR;
- Propose changes to simplify and clarify the DFARS coverage of patents, data, and copyrights, dramatically reducing the amount of regulatory text and the number of required clauses;
- Simplify and clarify the DFARS coverage of multiyear acquisitions;
- Establish a method in the DFARS for electronic issuance of orders; and
- Improve the contract closeout process.

3. Regulations of Particular Interest to Small Business

Of interest to small businesses are regulations to:

- Implement in the FAR changes to the requirement for small disadvantaged businesses certification;
- Revise the FAR to implement changes in the HUBZone Program, in accordance with Small Business Administration regulations;

- Consider revisions to the FAR to address the findings of the Rothe case that Federal contracting programs for minority-owned and other small businesses that implement 10 U.S.C. 2323 are ''facially'' unconstitutional;
- Establish a DoD program to enhance participation of Historically Black Colleges and Universities and Minority-Serving Institutions in defense research programs;
- Conform the DFARS to the FAR with respect to the use of the Electronic Subcontracting Reporting System; and
- Require public disclosure of justification and approval documents for noncompetitive 8(a) contracts over $20 million.

4. Regulations with international effects or interest

Of international effect or interest are regulations to:

- Implement in the FAR statutory certification requirement that each offeror does not engage in any activity for which sanctions may be imposed under section 5 of the Iran Sanctions Act. Also implements a procurement prohibition relating to contracts with persons that export sensitive technology to Iran;
- Establish in the FAR processes and criteria for waiver of the prohibition on contracting with entities that conduct restricted business operations in Sudan;
- Implement in the DFARS the determinations regarding participation of South Caucasus/Central and South Asian states in acquisitions in support of operations in Afghanistan;
- Finalize the FAR rule that prohibits Government contracts with any foreign incorporated entity that is treated as an inverted domestic corporation under section 835(b) of the Homeland Security Act of 2002 or any subsidiary of such entity;
- Implement in the FAR and DFARS the annual consolidated appropriation act exemption from the Buy American Act/Balance of Payments Program restrictions on the acquisition of foreign commercial information technology items as construction material; and
- Finalize in the FAR and DFARS the rules that increase trade agreements thresholds, as specified by the United States Trade Representative.

Specific DoD Priorities:

For this Regulatory Plan, there are seven specific DoD priorities, all of which reflect the established regulatory principles. In those areas where rulemaking or participation in the regulatory process is required, DoD has studied and developed policy and regulations that incorporate the provisions of the President's priorities and objectives under the Executive order.

DoD has focused its regulatory resources on the most serious environmental, health, and safety risks. Perhaps most significant is that each of the priorities described below promulgates regulations to offset the resource impacts of Federal decisions on the public or to improve the quality of public life, such as those regulations concerning acquisition, security, homeowners, education, and health affairs.

1. Regulatory Program of the U.S. Army Corps of Engineers

In 1988, the Army Corps of Engineers published as appendix B of 33 CFR part 325, a rule that governs compliance with the National Environmental Policy Act (NEPA) for the Army's Regulatory Program. On April 2, 2010, the Assistant Secretary of the Army for Civil Works announced that the Army Corps of Engineers would conduct rulemaking to modify appendix B to reflect a limited change in policy addressing permit applications for surface coal mining activities in Appalachia. The modification of appendix B will focus on the NEPA scope of review for considering the effects of surface coal mining in Appalachia on the aquatic environment, to enhance protection of aquatic resources.

2. Defense Procurement and Acquisition Policy

The Department of Defense continuously reviews the DFARS and continues to lead Government efforts to:

- Revise the DFARS to implement the Weapons System Acquisition Reform Act of 2009 – including acquisition strategies to ensure competition throughout life-cycle of major defense acquisition programs and address organizational conflicts of interest in major defense acquisition programs;
- Revise DFARS to ensure continuation of contractor services in support of mission essential functions during an emergency, such as an influenza pandemic;
- Clarify DoD policy in the DFARS regarding the definition and administration of contractor business systems to improve the effectiveness of DCMA/DCAA oversight of contractor business systems;
- Implement in the DFARS statutory requirement to inspect military facilities, infrastructure, and equipment for safety and habitability prior to use;
- Revise the FAR to implement the Executive orders relating to allowability of labor relations costs, non-displacement of qualified workers, notification of employee rights under Federal labor laws, and Federal leadership in environmental, energy, and economic performance;
- Revise the FAR to adopt biobased procurement preferences and collect contractor information on use of biobased products;
- Revise the FAR to address service contractor employee personal conflicts of interest and organizational conflicts of interest and limit contractor access to information; and
- Provide enhanced competition for task- and delivery-order contracts and additional market research before awarding a task or delivery order in excess of the simplified acquisition threshold.

3. Logistics and Materiel Readiness, Department of Defense

The Department of Defense published or plans to publish rules on contractors supporting the military in contingency operations:

- Final Rule: Private Security Contractors (PSCs) Operating in Contingency Operations. In order to meet the mandate of section 862 of the 2008 National Defense Authorization Act, this rule establishes policy, assigns responsibilities and provides procedures for the regulation of the selection, accountability, training, equipping, and conduct of personnel performing private security functions under a covered contract during contingency operations. It also assigns responsibilities and establishes procedures for incident reporting, use of and accountability for equipment, rules for the use of force, and a process for administrative action or the removal, as appropriate, of PSCs and PSC personnel. DoD published an interim final rule on July 17, 2009 (74 FR 34690 to 34694) with an effective date of July 17, 2009. The comment period ended August 31, 2009. DoD, in coordination with the Department of State and the United States Agency

for International Development, have prepared a final rule, which includes the responses to the public comments, and incorporates changes to the interim final rule, where appropriate. The final rule is expected to be published the first or second quarter of FY 2011.

- Interim Final Rule: Operational Contract Support for Contingency Operations. This rule will incorporate the latest changes and lessons learned into policy and procedures for program management for the preparation and execution of contracted support and the integration of DoD contractor personnel into military contingency operations outside the United States. DoD anticipates publishing the interim final rule in the first or second quarter of FY 2011.

4. Installations and Environment, Department of Defense

The Department of Defense published a rule to assist eligible military and civilian Federal employee homeowners:

- Final Rule: This rule authorizes the Homeowners Assistance Program (HAP) under section 3374 of title 42, United States Code, to assist eligible military and civilian Federal employee homeowners when the real estate market is adversely affected by closure or reduction-in-scope of operations. In accordance with DoD Directive 5101.1, ''DoD Executive Agent,'' designates the Secretary of the Army as the DoD Executive Agent for administering, managing, and executing the HAP. Additionally, this rule allows the Department of Defense to temporarily expand the existing HAP in compliance with section 1001 of the American Recovery and Reinvestment Act of 2009. This temporary expansion covers certain persons affected by BRAC 2005, certain persons on permanent change of station orders, and certain wounded persons and surviving spouses. This rule updates policy, delegates authority, and assigns responsibilities for managing Expanded HAP. This is an economically significant rule. DoD published an interim final rule on September 30, 2009 (74 FR 50109-50115), with an effective date of September 30, 2009. The comment period ended October 30, 2009. The final rule published November 16, 2010 (75 FR 69871) with an effective date of January 18, 2011.

5. Military Personnel Policy, Department of Defense

The Department of Defense published or plans to publish a rule implementing the Post-9/11 Veterans Educational Assistance Act of 2008, title V, Public Law 110-252 (the ''Post-9/11 GI Bill''):

- Interim Final Rule: This rule establishes policy, assigns responsibilities, and prescribes procedures for carrying out the Post-9/11 GI Bill. It establishes policy for the use of supplemental educational assistance ''kickers,'' for members with critical skills or specialties, or for members serving additional service; for authorizing the transferability of education benefits; and for the DoD Education Benefits Fund Board of Actuaries. DoD published an interim final rule on June 25, 2009 (74 FR 30212 to 30220) with an effective date of June 25, 2009. The comment period ended July 27, 2009. DoD anticipates finalizing this rule in the spring of 2011.

6. Military Community and Family Policy, Department of Defense

The Department of Defense published or plans to publish a rule to implement policy, assign responsibilities, and prescribe procedures for the operation of voluntary education programs within DoD.

- Proposed Rule: This rule implements policy, assigns responsibilities, and prescribes procedures for the operation of voluntary education programs within DoD. Included are: Procedures for Service members participating in education programs; guidelines for establishing, maintaining, and operating voluntary education programs; procedures for obtaining on-base voluntary education programs and services; minimum criteria for selecting institutions to deliver higher education programs and services on military installations; and the Memorandum of Understanding between educational institutions and DoD prior to the disbursement of tuition assistance funds. This is an economically significant rule. The proposed rule published August 6, 2010 (75 FR 47504-47515). The comment period ends October 5, 2010. DoD anticipates finalizing this rule in the spring or fall of FY 2011.

7. Health Affairs, Department of Defense

The Department of Defense is able to meet its dual mission of wartime readiness and peacetime health care by operating an extensive network of medical treatment facilities. This network includes DoD's own military treatment facilities supplemented by civilian health care providers, facilities, and services under contract to DoD through the TRICARE program. TRICARE is a major health care program designed to improve the management and integration of DoD's health care delivery system. The program's goal is to increase access to health care services, improve health care quality, and control health care costs.

The TRICARE Management Activity has published or plans to publish the following rules:

- Final rule on CHAMPUS/TRICARE: Inclusion of TRICARE Retail Pharmacy Program in Federal Procurement of Pharmaceuticals. This rule provided an additional opportunity for comment on the final rule of March 17, 2009, implementing provisions of section 703 of the National Defense Authorization Act for Fiscal Year 2008. This statute extended pharmaceutical Federal Ceiling Prices to TRICARE Retail Pharmacy Program prescriptions. The Department of Defense (DoD) issued a final rule on March 17, 2009, implementing the law. On November 30, 2009, the U.S. District Court for the District of Columbia ''ordered that the final rule is remanded without vacatur for the Defense Department to consider in its discretion whether to readopt the current iteration of the rule or adopt another approach to implement 10 U.S.C. 1074g(f).'' As part of DoD's reconsideration, DoD solicited public comments on the implementation of the statute, DoD's resulting regulations, and the matters addressed for DoD's consideration in the Court's Memorandum Opinion. The proposed rule was published February 9, 2010 (75 FR 6335-6336). The comment period ended on March 11, 2010. DoD anticipates publishing a second final rule in the first quarter of FY 2011.
- Final rule on TRICARE: Relationship Between the TRICARE Program and Employer-Sponsored Group Health Coverage. This rule implements section 1097c of title 10, United States Code. This law prohibits employers from offering incentives to TRICARE-eligible employees to not enroll, or to terminate enrollment, in an employer-offered Group Health Plan (GHP) that is or would be primary to TRICARE. Cafeteria plans that comport with section 125 of the Internal Revenue Code will be permissible so long as the plan treats all employees the same and does not illegally take TRICARE eligibility into account. The proposed rule was published March 28, 2008

(73 FR 16612). The comment period ended May 27, 2008. The final rule published April 9, 2010 (75 FR 18051 to 18055) with an effective date of June 18, 2010.

- Proposed rule on TRICARE: Sole Community Hospital Payment Reform. This rule implements the statutory provision in section 1079(j)(2) of title 10, United States Code that TRICARE payment methods for institutional care shall be determined to the extent practicable in accordance with the same reimbursement rules as those that apply to payments to providers of services of the same type under Medicare. This proposed rule implements a reimbursement methodology similar to that furnished to Medicare beneficiaries for services provided by sole community hospitals. DoD anticipates publishing a proposed rule in the first or second quarter of FY 2011.
- Proposed rule on TRICARE: Long Term Care Hospital Prospective Payment System. This rule adopts a reimbursement methodology for Long Term Care Hospitals similar to Medicare's Long Term Care Hospital Prospective Payment System. DoD anticipates publishing a proposed rule in the spring of FY 2011.

8. Networks and Information Integration, Department of Defense

The Department of Defense will publish a rule regarding Defense Industrial Base Voluntary Cyber Security and Information Assurance Information Sharing:

- Interim Final Rule: This rule establishes cyber threat information sharing, reporting, and analysis mechanisms between DoD and cleared Defense Industrial Base (DIB) contractors to enhance cyber threat situational awareness and threat response. The rule establishes a voluntary information sharing environment with DIB partners to address the unacceptable risk and imminent threat to national and economic security stemming from the unauthorized access by U.S. adversaries or business competitors to critical DoD unclassified information resident on, or transiting, DIB unclassified networks. The rule describes the collaborative DoD and DIB corporate-level partnership to enhance security of DIB networks; increase USG and industry knowledge of advanced cyber threats; provide near-real time cyber threat information sharing and understand the impact of data compromise on DoD operational activities. Participation in the DIB Cyber Security/Information Assurance program is voluntary and open to all qualified cleared contractors. DoD anticipates publishing an interim final rule in the second quarter of FY 2011.

DOD—Office of the Secretary (OS)

FINAL RULE STAGE

31. VOLUNTARY EDUCATION PROGRAMS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

10 USC 2005; 10 USC 2007

CFR Citation:

32 CFR 68

Legal Deadline:

None

Abstract:

This rule implements policy, assigns responsibilities, and prescribes procedures for the operation of voluntary education programs within DoD. Included are: Procedures for Service members participating in education programs; guidelines for establishing, maintaining, and operating voluntary education programs, including but not limited to, instructor-led courses offered on-installation and off-installation, as well as via distance learning; procedures for obtaining on-base voluntary education programs and services; minimum criteria for selecting institutions to deliver higher education programs and services on military installations; the establishment of a DoD Voluntary Education Partnership Memorandum of Understanding between DoD and educational institutions receiving tuition assistance payments; and procedures for other education programs for Service members and their adult family members.

Statement of Need:

This rule implements policy, assigns responsibilities, and prescribes procedures for the operation of voluntary education programs within DoD. Included are: Procedures for Service members participating in education programs; guidelines for establishing, maintaining, and operating voluntary education programs, including but not limited to, instructor-led courses offered on-installation and off-installation, as well as via distance learning; procedures for obtaining on-base voluntary education programs and services; minimum criteria for selecting institutions to deliver higher education programs and services on military installations; the establishment of a DoD Voluntary Education Partnership Memorandum of Understanding between DoD and educational institutions receiving tuition assistance payments; and procedures for other education programs for Service members and their adult family members.

Summary of Legal Basis:

sections 2005 and 2007 of title 10, United States Code

Alternatives:

None.

Anticipated Cost and Benefits:

Voluntary Education Programs include: High School Completion /Diploma; Military Tuition Assistance (TA); Postsecondary Degree Programs; Independent Study and Distance Learning Programs; College Credit Examination Program; Academic Skills Program; and Certification/Licensure Programs. Funding for Voluntary Education Programs during 2009 was $800 million, which included tuition assistance and operational costs. This funding provided more than 650,000 individuals (Service members and their adult family members) the opportunity to participate in Voluntary Education Programs around the world.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	08/06/10	75 FR 47504
NPRM Comment Period End	10/05/10	
Final Action	04/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

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RIN: 0790–AI50

DOD—Office of Assistant Secretary for Health Affairs (DODOASHA)

PROPOSED RULE STAGE

32. ● TRICARE; REIMBURSEMENT OF SOLE COMMUNITY HOSPITALS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

5 USC 301; 10 USC ch 55

CFR Citation:

32 CFR 199

Legal Deadline:

None

Abstract:

This proposed rule is to implement the statutory provision at 10 U.S.C. 1079(j)(2) that TRICARE payment methods for institutional care be determined, to the extent practicable, in accordance with the same reimbursement rules as those that apply to payments to providers of services of the same type under Medicare. This proposed rule implements a reimbursement methodology similar to that furnished to Medicare beneficiaries for inpatient services provided by Sole Community Hospitals (SCHs). It will be phased in over a several-year period.

Statement of Need:

This rule is being published to implement the statutory provision in 10 U.S.C. 1079(j)(2), that TRICARE payment methods for institutional care be determined, to the extent practicable, in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under Medicare. This proposed rule implements a reimbursement methodology similar to that furnished to Medicare beneficiaries for inpatient services provided by Sole Community Hospitals.

Summary of Legal Basis:

There is a statutory basis for this proposed rule: 10 U.S.C. 1079(j)(2).

Alternatives:

Alternatives were considered for phasing in the needed reform and an alternative was selected for a gradual, smooth transition.

Anticipated Cost and Benefits:

We estimate the total reduction (from the proposed changes in this rule) in hospital revenues under the SCH reform for its first year of implementation (assumed for purposes of this RIA to be FY 2011), compared to expenditures in that same period without the proposed SCH changes, to be approximately $190 million. The estimated impact for FYs 2012 through 2015 (in $ millions) is $208, $229, $252, and $278 respectively.

Risks:

Failure to publish this proposed rule would result in noncompliance with a statutory provision.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Agency Contact:

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RIN: 0720–AB41

BILLING CODE 5001–06–S

DEPARTMENT OF EDUCATION (ED)

Statement of Regulatory Priorities

I. Introduction

The U.S. Department of Education (Department) supports States, local communities, institutions of higher education, and others in improving education nationwide and in helping to ensure that all Americans receive a quality education. We provide leadership and financial assistance for education at all levels to a wide range of stakeholders and individuals, including State educational agencies, local school districts, early learning programs, elementary and secondary schools, institutions of higher education, vocational schools, not-for-profit organizations, members of the public, and many others. These efforts are helping to ensure that all students will be ready for college and careers, and that all students have the opportunity to attend postsecondary education.

We also vigorously monitor and enforce the implementation of Federal civil rights laws in educational programs and activities that receive Federal financial assistance, and support innovation and research, evaluation, technical assistance, and dissemination of research findings to improve the quality of education.

Overall, the programs we administer will affect nearly every American during his or her life. Indeed, in the 2010 to 2011 school year, more than 1.5 million children, ages birth through 5 years, will participate in early learning programs under the Individuals with Disabilities Education Act (IDEA) and title I of the Elementary and Secondary Education Act of 1965, as amended (ESEA); about 50 million students will attend an estimated 99,000 elementary and secondary schools in approximately 13,800 public school districts; and about 20 million students will enroll in degree-granting postsecondary schools. All of these students may benefit from some degree of financial assistance or support from the Department.

In developing and implementing regulations, guidance, technical assistance, and approaches to compliance related to our programs, we are committed to working closely with affected persons and groups. Specifically, we work with a broad range of interested parties and the general public, including parents, students, and educators; other Federal agencies and State, local, and tribal governments; and neighborhood groups, schools, colleges, rehabilitation service providers, professional associations, advocacy organizations, community-based organizations, businesses, and labor organizations.

We also continue to seek greater and more useful public participation in our rulemaking activities through the use of transparent and interactive rulemaking procedures and new technologies. If we determine that it is necessary to develop regulations, we seek public participation at the key stages in the rulemaking process. We invite the public to submit comments on all proposed regulations through the Internet or by regular mail.

To facilitate the public's involvement, we participate in the Federal Docketing Management System (FDMS), an electronic single Governmentwide access point (www.regulations.gov) that enables the public to submit comments on different types of Federal regulatory documents and read and respond to comments submitted by other members of the public during the public comment period. This system provides the public the opportunity to submit a comment electronically on any notice of proposed rulemaking or interim final regulations open for comment, as well as read and print any supporting regulatory documents.

We are continuing to streamline information collections, reduce the burden on information providers involved in our programs, and make information easily accessible to the public.

II. Regulatory Priorities

A. American Recovery and Reinvestment Act of 2009

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA), historic legislation designed to stimulate the economy, support job creation, and invest in critical sectors, including education. The ARRA lays the foundation for education reform by supporting investments in innovative strategies that are most likely to lead to improved results for children and youth, long-term gains in school and school system capacity, and increased productivity and effectiveness.

The ARRA provided funding for several key discretionary grant programs, including the Race to the Top Fund and the Investing in Innovation Fund. The Department issued regulations for these programs in 2009 and 2010. To the extent Congress reauthorizes and appropriates funds for these programs in FY 2011, we may need to amend the regulations for these programs.

B. Elementary and Secondary Education Act of 1965, as Amended

On March 13, 2010, the Obama administration released the Blueprint for Reform: The Reauthorization of the Elementary and Secondary Education Act, the President's plan for revising the ESEA. The blueprint can be found at the following Web site: http://www2.ed.gov/policy/elsec/leg/blueprint/index.html.

We look forward to congressional reauthorization of the ESEA that will build on many of the reforms States and LEAs will be implementing under the ARRA grant programs described in this statement of regulatory priorities. As necessary, we intend to amend current regulations to reflect the reauthorization of this statute. In the interim, we may propose other amendments to the current regulations.

C. Higher Education Act of 1965, as Amended

In early 2011, the Department plans to issue final regulations to establish measures for determining whether certain postsecondary educational programs lead to gainful employment in a recognized occupation. These regulations also address the conditions under which these educational programs remain eligible for the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended (HEA).

On March 30, 2010, the President signed into law the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, title II of which is the SAFRA Act. SAFRA made a number of changes to the Federal student financial aid programs under title IV of the HEA. One of the most significant changes made by SAFRA is to end new loans under the Federal Family Education Loan (FFEL) Program authorized by title IV, part B, of the HEA as of July 1, 2010.

During the coming year, we plan to amend our regulations to address issues related to the termination of the FFEL Program and the Department's origination of all new loans under the William D. Ford Direct Loan Program, as well as other statutory provisions enacted under SAFRA. Unless subject to an exemption, regulations to reflect changes to the student financial aid programs under title IV of the HEA must

generally go through the negotiated rulemaking process.

D. Individuals with Disabilities Education Act

We plan to issue final regulations implementing changes to the part C program—the early intervention program for infants and toddlers with disabilities—under the IDEA.

E. Family Educational Rights and Privacy Act

Given the President's emphasis on improving the collection and use of data as a key element of educational reform, we intend to issue a notice of proposed rulemaking to amend our current regulations for the Family Educational Rights and Privacy Act of 1974 (FERPA) to ensure that States are able to effectively establish and expand robust statewide longitudinal data systems while protecting student privacy.

F. Other Potential Regulatory Activities

Congress may legislate to reauthorize the Adult Education and Family Literacy Act (AEFLA) (title II of the Workforce Investment Act of 1998) and the Rehabilitation Act of 1973, as amended. The Administration is working with Congress to ensure that any changes to these laws (1) improve the State grant and other programs providing assistance for adult basic education under the AEFLA and for vocational rehabilitation and independent living services for persons with disabilities under the Rehabilitation Act of 1973 and (2) provide greater accountability in the administration of programs under both statutes. Changes to our regulations may be necessary as a result of the reauthorization of these two statutes.

III. Principles for Regulating

Over the next year, other regulations may be needed because of new legislation or programmatic changes. In developing and promulgating regulations, we follow our Principles for Regulating, which determine when and how we will regulate. Through consistent application of the following principles, we have eliminated unnecessary regulations and identified situations in which major programs could be implemented without regulations or with limited regulatory action.

In deciding when to regulate, we consider the following:

- Whether regulations are essential to promote quality and equality of opportunity in education.
- Whether a demonstrated problem cannot be resolved without regulation.
- Whether regulations are necessary to provide a legally binding interpretation to resolve ambiguity.
- Whether entities or situations subject to regulation are so diverse that a uniform approach through regulation does more harm than good.
- Whether regulations are needed to protect the Federal interest; that is, to ensure that Federal funds are used for their intended purpose and to eliminate fraud, waste, and abuse.

In deciding how to regulate, we are mindful of the following principles:

- Regulate no more than necessary.
- Minimize burden to the extent possible and promote multiple approaches to meeting statutory requirements if possible.
- Encourage coordination of federally funded activities with State and local reform activities.
- Ensure that the benefits justify the costs of regulation.
- To the extent possible, establish performance objectives rather than specify compliance behavior.
- Encourage flexibility, to the extent possible, so institutional forces and incentives achieve desired results.

ED—Office of Postsecondary Education (OPE)

PROPOSED RULE STAGE

33. ● TITLE IV OF THE HIGHER EDUCATION ACT OF 1965, AS AMENDED

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

20 USC title IV; PL 111–152

CFR Citation:

34 CFR ch VI

Legal Deadline:

None

Abstract:

The Secretary proposes to amend its title IV, HEA student assistance regulations, to (1) reflect the termination of the Federal Family Education Loan Program pursuant to title II of the Health Care and Education Reconciliation Act of 2010, which is the SAFRA Act, and (2) reflect other statutory changes resulting from the SAFRA Act.

Statement of Need:

These regulations are needed to reflect the provisions of the SAFRA Act (title II of the Health Care and Education Reconciliation Act of 2010), which terminated the Federal Family Education Loan (FFEL) program, and to reflect other amendments to the HEA resulting from the SAFRA Act.

Summary of Legal Basis:

Health Care and Education Reconciliation Act of 2010, Public Law 111-152.

Alternatives:

The Department is still developing these proposed regulations; our discussion of alternatives will be included in the notice of proposed rulemaking.

Anticipated Cost and Benefits:

Estimates of the costs and benefits are currently under development and will be published in the proposed regulations.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	05/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

URL For Public Comments:

www.regulations.gov

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ED—OPE

FINAL RULE STAGE

34. ● PROGRAM INTEGRITY: GAINFUL EMPLOYMENT—MEASURES

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

20 USC 1001 to 1003; 20 USC 1070g; 20 USC 1085; 20 USC 1088; 20 USC 1091 to 1092; 20 USC 1094; 20 USC 1099c; 20 USC 1099c–1; . . .

CFR Citation:

34 CFR 668

Legal Deadline:

None

Abstract:

The Secretary amends the Student Assistance General Provisions to establish measures for determining whether certain postsecondary educational programs lead to gainful employment in recognized occupations, and the conditions under which those educational programs remain eligible for the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended.

Statement of Need:

These regulations are needed to establish measures for determining whether certain postsecondary educational programs lead to gainful employment in a recognized occupation.

Summary of Legal Basis:

Title IV of the Higher Education Act of 1965, as amended.

Alternatives:

A discussion of alternatives was outlined in the Notice of Proposed Rulemaking published on July 26, 2010.

Anticipated Cost and Benefits:

Estimates of anticipated costs and benefits are set forth in the Notice of Proposed Rulemaking published on July 26, 2010.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	07/26/10	75 FR 43616
NPRM Comment Period End	09/09/10	
Final Action	02/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

URL For Public Comments:

www.regulations.gov

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Related RIN: Previously reported as 1840–AD04

RIN: 1840–AD06

BILLING CODE 4000–01–S

DEPARTMENT OF ENERGY (DOE)

Statement of Regulatory and Deregulatory Priorities

The Department of Energy (Department or DOE) makes vital contributions to the Nation's welfare through its activities focused on improving national security, energy supply, energy efficiency, environmental remediation, and energy research. The Department's mission is to:

- Promote dependable, affordable, and environmentally sound production and distribution of energy;
- Advance energy efficiency and conservation;
- Provide responsible stewardship of the Nation's nuclear weapons;
- Provide a responsible resolution to the environmental legacy of nuclear weapons production;
- Strengthen U.S. scientific discovery, economic competitiveness, and improving quality of life through innovations in science and technology.

The Department's regulatory activities are essential to achieving its critical mission and to implementing major initiatives of the President's National Energy Policy. Among other things, The Regulatory Plan and the Unified Agenda contain the rulemakings the Department will be engaged in during the coming year to fulfill the Department's commitment to meeting deadlines for issuance of energy conservation standards and related test procedures. The Regulatory Plan and Unified Agenda also reflect the Department's continuing commitment to cut costs, reduce regulatory burden, and increase responsiveness to the public.

Energy Efficiency Program for Consumer Products and Commercial Equipment

The Energy Policy and Conservation Act (EPCA) requires DOE to set appliance efficiency standards at levels that achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. The standards already published in 2010 have a net benefit to the Nation of between $7.7 billion (7 percent discount rate) and 23.5 billion (3 percent discount rate) over 30 years. By 2045, these standards will have saved enough energy to operate all U.S. homes for 4 months.

The Department continues to follow its schedule for setting new appliance efficiency standards. These rulemakings are expected to save American consumers billions of dollars in energy costs. The 5-year plan to implement the schedule outlines how DOE will address the appliance standards rulemaking backlog and meet the statutory requirements established in EPCA and the Energy Policy Act of 2005 (EPACT 2005). The 5-year plan, which was developed considering the public comments received on the appliance standards program, provides for the issuance of one rulemaking for each of the 22 products in the backlog. The plan also provides for setting appliance standards for products required under EPACT 2005.

The overall plan for implementing the schedule is contained in the Report to Congress under section 141 of EPACT 2005 that was released on January 31, 2006. This plan was last updated in the August 2010 report to Congress and now includes the requirements of the Energy Independence and Security Act of 2007 (EISA 2007). The reports to Congress are posted at:

http://www.eere.energy.gov/appliance__standards/schedule__setting.html.

The August 2010 report identifies all products for which DOE has missed the deadlines established in EPCA (42 U.S.C. sec. 6291 *et seq.*). It also describes the reasons for such delays and the Department's plan for expeditiously prescribing new or amended standards. Information and timetables concerning these actions can also be found in the Department's regulatory agenda, which is posted online at: www.reginfo.gov.

Estimate of Combined Aggregate Costs and Benefits

The regulatory actions included in this regulatory plan for residential refrigerators and freezers, fluorescent lamp ballasts, residential central air conditioners and heat pumps, residential furnaces, manufactured housing, and clothes dryers and room air conditioners provide significant benefits to the Nation. DOE believes that the benefits to the Nation of the proposed energy standards for residential refrigerators and freezers (energy savings, consumer average life-cycle cost savings, national net present value increase, and emissions reductions) outweigh the costs (loss of industry net present value and life-cycle cost increases for some consumers). DOE estimates that these refrigerator and freezer regulations will produce an energy savings of 4.5 quads over 30 years. The benefit to the Nation will be between $2.44 billion (7 percent discount rate) and $18.57 billion (3 percent discount rate). DOE believes that the proposed energy standards for fluorescent lamp ballasts, central air conditioners and heat pumps, residential furnaces, manufactured housing, and clothes dryers and room air conditioners will also be beneficial to the Nation. Because DOE has not yet proposed candidate standard levels for this equipment, however, DOE cannot provide an estimate of combined aggregate costs and benefits for these actions. DOE will, however, in compliance with all applicable law, issue standards that will provide the maximum energy savings that are technologically feasible and economically justified. Estimates of energy savings will be provided when DOE issues the notices of proposed rulemaking for this equipment.

DOE—Energy Efficiency and Renewable Energy (EE)

PROPOSED RULE STAGE

35. ENERGY EFFICIENCY STANDARDS FOR CLOTHES DRYERS AND ROOM AIR CONDITIONERS

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 6295(c) and (g)

CFR Citation:

10 CFR 430

Legal Deadline:

Final, Judicial, June 30, 2011.

Abstract:

The Energy Policy and Conservation Act, as amended, establishes initial energy efficiency standard levels for many types of major residential appliances and generally requires DOE to undertake two subsequent rulemakings, at specified times, to determine whether the existing standard for a covered product should be amended. This is the second review of the standards for clothes dryers and room air conditioners.

Statement of Need:

The Energy Policy and Conservation Act requires minimum energy efficiency standards for appliances, which has the effect of eliminating inefficient appliances from the market.

Summary of Legal Basis:

Title III of EPCA sets forth a variety of provisions designed to improve energy efficiency. Part A of title III (42 U.S.C. 6291 to 6309) provides for the Energy Conservation Program for Consumer Products other than Automobiles. EPCA covers consumer products and certain commercial equipment, including clothes dryers and room are conditioners that are the subject of the rulemaking (42 U.S.C. 6292(a)(2)-(8)). EPCA prescribes energy conservation standards for room air conditioners (42 U.S.C. 6295(c)) and directs DOE to conduct two cycles of rulemaking to determine whether to adopt amended standards (42 U.S.C. 6295(c)(3)(A)). For clothes dryers, EPCA sets a prescriptive requirement (42 U.S.C. 6294(g)(3)) and directs DOE to conduct a cycle of rulemaking to determine whether to adopt amended standards (42 U.S.C. 6294(g)(4)). This rulemaking represents the second and first round of amendments to the standards for room air conditioners and dryers respectively.

Alternatives:

The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is a technologically feasible and economically justified. In making this determination, DOE conducts a thorough analysis of the alternative standard levels, including the existing standard, based on the criteria specified by the statute.

Anticipated Cost and Benefits:

Because DOE has not yet proposed candidate standard levels for these products, DOE cannot provide an estimate of combine aggregate costs and benefits for these actions. DOE will, however, in compliance with all applicable law, issue standards that provide the maximum energy savings that are technologically feasibly and economically justified. Estimates of energy savings will be provided when DOE issues the notices of proposed rulemaking for this equipment.

Timetable:

Action	Date	FR Cite
Notice: Public Meeting, Framework Document Availability	10/09/07	72 FR 57254
Notice: Public Meeting, Data Availability	02/23/10	75 FR 7987
Comment Period End	04/26/10	
NPRM	03/00/11	
Final Action	06/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Local, State

Federalism:

Undetermined

Additional Information:

This rulemaking is the second of two rulemakings required for this equipment. Comments pertaining to this rule may be submitted electronically to aham2-2008-TP-0010@hq.doe.gov.

URL For More Information:

www1.eere.energy.gov/buildings__standards/residential/clothes__dryers.html

URL For Public Comments:

www.regulations.gov

Agency Contact:

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Related RIN: Merged with 1904–AB51, Related to 1904–AB76, Related to 1904–AC02

RIN: 1904–AA89

DOE—EE

36. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL CENTRAL AIR CONDITIONERS AND HEAT PUMPS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 6295(d)

CFR Citation:

10 CFR 430

Legal Deadline:

Final, Judicial, June 30, 2011.

Abstract:

DOE is reviewing and updating energy efficiency standards, as required by the Energy Policy and Conservation Act, to reflect technological advances. All amended standards must be technologically feasible and economically justified. This is the second review of the statutory standards for residential central air conditioners and air conditioning heat pumps.

Statement of Need:

The Energy Policy and Conservation Act requires minimum energy efficiency standards for appliances, which has the effect of eliminating inefficient appliances and equipment from the market.

Summary of Legal Basis:

Title III of EPCA sets forth a variety of provisions designed to improve energy efficiency. Part A of title III (42 U.S.C. 6291 to 6309) provides for the Energy Conservation Program for Consumer Products other than Automobiles. Amendments expanded title III of EPCA to include certain commercial and industrial equipment. (42 U.S.C. 6292(3)) The National Appliance Energy Conservation Act of 1987 (NAECA), Pub. L. 100—12, established energy conservation standards for central air conditioners and heat pumps as well as requirements for determining whether these standards should be amended. NAECA also required that DOE conduct two cycles of rulemakings to determine if more stringent standards are economically justified and technologically feasible. (42 U.S.C. 6295(d)(3)) On January 22, 2001, DOE published a final rule in the Federal Register, which completed the first rulemaking cycle to amend energy conservation standards for residential central air conditioners and heat pumps. 66 FR 7170. This rulemaking encompasses DOE's second cycle of review to determine whether the standards in effect for residential central air conditioners and heat pumps should be amended.

Alternatives:

The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, DOE conducts a thorough analysis of the alternative standard levels, including the existing standard, based on the criteria specified by the statute.

Anticipated Cost and Benefits:

Because DOE has not yet proposed candidate standard levels for this equipment, DOE cannot provide an estimate of combined aggregate costs and benefits for these actions. DOE will, however, in compliance with all applicable law, issue standards that provide the maximum energy savings that are technologically feasible and economically justified. Estimates of energy savings will be provided when DOE issues the notices of proposed rulemaking for this equipment.

Timetable:

Action	Date	FR Cite
Notice: Public Meeting, Framework Document Availability	06/06/08	73 FR 32243
Notice: Public Meetings, Data Availability	03/25/10	75 FR 14368
NPRM	12/00/10	
Final Action	06/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Local, State

Federalism:

Undetermined

Additional Information:

This rulemaking is the second of two rulemakings required for this equipment. Comments pertaining to this rule may be submitted electronically to Res__Central__AC__HP@ee.doe.gov.

URL For More Information:

www1.eere.energy.gov/buildings/appliance__standards/residential/central__ac__hp.html

URL For Public Comments:

www.regulations.gov

Agency Contact:

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Related RIN: Related to 1904–AB94

RIN: 1904–AB47

DOE—EE

37. ENERGY EFFICIENCY STANDARDS FOR FLUORESCENT LAMP BALLASTS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 6295(g)

CFR Citation:

10 CFR 430

Legal Deadline:

Final, Judicial, June 30, 2011.

Abstract:

DOE is reviewing and updating energy efficiency standards, as required by the Energy Policy and Conservation Act, to reflect technological advances. All amended energy efficiency standards must be technologically feasible and economically justified. This is the second review of the statutory standards for fluorescent lamp ballasts.

Statement of Need:

The Energy Policy and Conservation Act requires minimum energy efficiency standards for appliances, which has the effect of eliminating inefficient appliances and equipment from the market.

Summary of Legal Basis:

The Energy Policy and Conservation Act (EPCA) of 1975 (42 U.S.C. 6291 to 6309) established an energy conservation program for major household appliances. Amendments to EPCA in the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988) established energy conservation standards for fluorescent lamp ballasts. These amendments also required that DOE (1) conduct two rulemaking cycles to determine whether these standards should be amended and (2), for each rulemaking cycle, determine whether the standards in effect for fluorescent lamp ballasts should be amended to apply to additional fluorescent lamp ballasts. (42 U.S.C. 6295(g)(7)(A)—(B)). On September 19, 2000, DOE published a final rule in the Federal Register, which completed the first rulemaking cycle to amend energy conservation standards for fluorescent lamp ballasts. 65 FR 56740. This rulemaking encompasses DOE's second cycle of review to determine whether the standards in effect for fluorescent lamp ballasts should be amended and whether the standards should be applicable to additional fluorescent lamp ballasts.

Alternatives:

The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, DOE conducts a thorough analysis of the alternative standard levels, including the existing standard, based on the criteria specified by the statute.

Anticipated Cost and Benefits:

Because DOE has not yet proposed candidate standard levels for this equipment, however, DOE cannot provide an estimate of combined aggregate costs and benefits for these actions. DOE will, however, in compliance with all applicable law, issue standards that provide the maximum energy savings that are technologically feasible and economically justified. Estimates of energy savings will be provided when DOE issues the notices of proposed rulemaking for this equipment.

Timetable:

Action	Date	FR Cite
Notice: Public Meeting, Framework Document Availability	01/22/08	73 FR 3653
Notice: Public Meetings, Data Availability	03/24/10	75 FR 14319
NPRM	12/00/10	
Final Action	06/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Local, State

Federalism:

Undetermined

Additional Information:

This rulemaking is the second of two rulemakings required for this equipment. Comments pertaining to this rule may be submitted electronically to ballasts.rulemaking@ee.doe.gov.

URL For More Information:

www1.eere.energy.gov/buildings/appliance__standards/residential.fluorescent__lamp.ballasts.html

URL For Public Comments:

www.regulations.gov

Agency Contact:

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Related RIN: Related to 1904–AB77, Related to 1904–AA99

RIN: 1904–AB50

DOE—EE

38. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL FURNACES

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 6295(f) and (m)

CFR Citation:

10 CFR 430

Legal Deadline:

Final, Judicial, June 30, 2011.

Abstract:

DOE published an energy conservation standard final rule for residential furnaces and boilers in the Federal Register on November 19, 2007 (72 FR 65136). Petitioners challenged this final rule on several grounds. DOE filed a motion for voluntary remand to allow the agency to consider: 1) The application of regional standards in additional to national standards for furnaces, authorized by Energy Independence and Security Act of 2007 (enacted Dec. 19, 2007) and 2) the effect of alternative standards on natural gas prices. This motion for voluntary remand was granted on April 21, 2009. DOE has initiated this rulemaking to consider amended energy conservation standards for residential furnaces.

Statement of Need:

The Energy Policy and Conservation Act requires minimum energy efficiency standards for appliances, which has the effect of eliminating inefficient appliances and equipment from the market.

Summary of Legal Basis:

Title III of EPCA sets forth a variety of provisions designed to improve energy efficiency. Part A of title III (42 U.S.C. 6291 to 6309) provides for the Energy Conservation Program for Consumer Products other than Automobiles. The program covers certain commercial and industrial equipment, including residential furnaces. (42 U.S.C. 6292(a)(5)) EPCA prescribed the initial energy conservation standards for residential furnaces. (42 U.S.C. 6295(f)(1)—(2)) The statute further provides DOE with the authority to conduct rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(f)(4)).

Alternatives:

The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, DOE conducts a thorough analysis of the alternative standard levels, including the existing standard, based on the criteria specified by the statute.

Anticipated Cost and Benefits:

Because DOE has not yet proposed candidate standard levels for this equipment, DOE cannot provide an estimate of combined aggregate costs and benefits for these actions. DOE will, however, in compliance with all applicable law, issue standards that provide the maximum energy savings that are technologically feasible and economically justified. Estimates of energy savings will be provided when DOE issues the notices of proposed rulemaking for this equipment.

Timetable:

Action	Date	FR Cite
Notice: Public Meeting, Rulemaking Analysis Plan Availability	03/15/10	75 FR 12144
NPRM	12/00/10	
Final Action	06/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Undetermined

Federalism:

Undetermined

URL For More Information:

http://www1.eere.energy.gov/buildings/appliance__standards/residential/furnaces__boilers.html

URL For Public Comments:

www.regulations.gov

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RIN: 1904–AC06

DOE—EE

39. ENERGY EFFICIENCY STANDARDS FOR MANUFACTURED HOUSING

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 17071

CFR Citation:

10 CFR 460

Legal Deadline:

Final, Statutory, December 19, 2011.

Abstract:

The rule would establish energy efficiency standards for manufactured housing and a system to ensure compliance with, and enforcement of, the standards.

Statement of Need:

The Energy Independence and Security Act requires increased energy efficiency standards for manufactured housing.

Summary of Legal Basis:

Section 413 of the Energy Independence and Security Act of 2007 (EISA), 42 U.S.C. 17071 directs DOE to develop and publish energy standards for manufactured housing.

Alternatives:

The statute requires DOE to conduct a rulemaking to establish standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, DOE conducts a thorough analysis of the alternative standard levels, including the existing standard, based on the criteria specified by the statute.

Anticipated Cost and Benefits:

Because DOE has not yet proposed candidate standard levels, DOE cannot provide an estimate of combined aggregate costs and benefits for these actions. DOE will, however, in compliance with all applicable law, issue standards that provide the increased energy savings that are technologically feasible and economically justified. Estimates of energy savings will be provided when DOE issues the notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	02/22/10	75 FR 7556
ANPRM Comment Period End	03/24/10	
NPRM	04/00/11	
Final Action	12/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

URL For Public Comments:

www.regulations.gov

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RIN: 1904–AC11

DOE—EE

FINAL RULE STAGE

40. ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL REFRIGERATORS, REFRIGERATOR–FREEZERS, AND FREEZERS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

42 USC 6295(b)(4)

CFR Citation:

10 CFR 430

Legal Deadline:

Final, Statutory, December 31, 2010.

Abstract:

The Energy Independence and Security Act of 2007 amended the Energy Policy and Conservation Act and directed the Secretary to issue a final rule to determine whether to amend the standards for refrigerators, refrigerator-freezers, and freezers. The final rule will contain any amended standards.

Statement of Need:

The Energy Policy and Conservation Act requires minimum energy efficiency standards for appliances, which has the effect of eliminating inefficient appliances and equipment from the market.

Summary of Legal Basis:

Title III of EPCA sets forth a variety of provisions designed to improve energy efficiency. Part A of title III (42 U.S.C. 6291 to 6309) provides for the Energy Conservation Program for Consumer Products other than Automobiles. EPCA covers consumer products and certain commercial equipment, including the types of refrigeration products that are the subject of this rulemaking. (42 U.S.C. 6292(a)(1)) EPCA prescribes energy conservation standards for these products (42 U.S.C. 6295(b)(1)-(2)) and directs DOE to conduct three cycles of rulemakings to determine whether to adopt amended standards. (42 U.S.C. 6295(b)(3)(A)(i), (b)(3)(B)-(C), and (b)(4)) This rulemaking represents the third round of amendments to the standards for refrigeration products.

Alternatives:

The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, DOE conducts a thorough analysis of the alternative standard levels, including the existing standard, based on the criteria specified by the statute

Anticipated Cost and Benefits:

DOE believes that the benefits to the Nation of the proposed energy standards for residential refrigerators and freezers (energy savings, consumer average lifecycle cost (LCC) savings, national net present value (NPV) increase, and emission reductions) outweigh the burdens (loss of INPV and LCC increases for some small electric motor users). DOE estimates that energy savings from electricity will be 4.5 quads over 30 years and the benefit to the Nation will be between $2.56 billion and $18.80 billion.

Timetable:

Action	Date	FR Cite
Notice: Public Meeting, Framework Document Availability	09/18/08	73 FR 54089
Notice: Public Meeting, Data Availability	11/16/09	74 FR 58915
NPRM	09/27/10	75 FR 59470
NPRM Comment Period End	11/26/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Local, State

Federalism:

This action may have federalism implications as defined in EO 13132.

Additional Information:

Comments pertaining to this rule may be submitted electronically to ResRefFreez-2008-STD-0012@hq.doe.gov.

URL For More Information:

www.eere.energy.gov/buildings/appliance__standards/residential/refrigerators__freezer.html

URL For Public Comments:

www.regulations.gov

Agency Contact:

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Related RIN: Related to 1904–AB92

RIN: 1904–AB79

BILLING CODE 6450–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Statement of Regulatory Priorities for FY 2011

The Department of Health and Human Services (HHS) is the Federal Government's principal agency charged with protecting the health of all Americans and providing essential human services. HHS' responsibilities include: Medicare, Medicaid, support for public health preparedness and emergency response, biomedical research, substance abuse and mental health treatment and prevention, assurance of safe and effective drugs and other medical products, protection of our Nation's food supply, assistance to low-income families, the Head Start program, services to older Americans, and direct health services delivery. Significantly, the Congress tasked HHS as the primary Department to implement the Affordable Care Act of 2010.

These programs constitute a substantial portion of the priorities of the Federal Government, and as such, the HHS budget represents almost a quarter of all Federal outlays, and the Department administers more grant dollars than all other agencies combined. Significantly, the Congress tasked HHS as the primary Department to implement the Affordable Care Act of 2010. The Department has met the statutory deadlines related to the key provisions of this law through the issuance of regulations, bulletins, and other guidance documents. The principle objective of the Department will continue to be implementation of the Affordable Care Act in a manner that promotes consumer protections, improves quality and safety, incentivizes more efficient care delivery, and slows the growth of health care costs. These policies reflect the Department's commitment to put consumers first, to provide stability in private insurance markets, and reform the health care delivery system.

Since assuming the leadership of HHS last year, Secretary Kathleen G. Sebelius has sought to prioritize efforts to promote early childhood health and development, help Americans achieve and maintain healthy weight, prevent and reduce tobacco use, protect the health and safety of Americans in public health emergencies, accelerate the process of scientific discovery to improve patient care, implement a 21st century food safety system, and ensure program integrity and responsible stewardship. Further, the Secretary has worked devotedly to enact meaningful reform of the country's health care system, and the Department has and will continue to focus considerable effort on implementation of the landmark health care reform bill passed by the Congress and signed into law by President Obama in March of 2010.

The Obama Administration has prioritized the use of rulemaking to promote open government and to identify regulatory approaches that maximize net benefits. HHS regulatory priorities in the upcoming fiscal year reflect these goals in two ways. First, they advance transparency through the use of disclosure as a regulatory tool. Second, they maximize the net benefits conferred on society by utilizing rigorous cost-benefit analyses in the development of regulations. Below is an overview of the Department's regulatory priorities for FY 2011 that best exemplify these objectives.

Promotion of Open Government

1. Transparency for Consumers Under the Affordable Care Act

Two regulations to be promulgated by the Department in FY 2011 will require that insurers submit certain information on how they pay claims and set their premiums. One of these regulations will require certain statistics and information on claims, rating processes, and cost sharing to be disclosed to the State and Federal Government, as well as to consumers. HHS estimates the benefits of this regulation to come from improved information for consumers and regulators, which will in turn result in a more efficient insurance market. Improved information for consumers will allow them to make better health insurance choices—to choose higher quality insurers and ones that more closely match their preferences with respect to plan design. This could result in increased satisfaction and decreased morbidity. In addition, consumers may be more likely to choose insurers with more efficient processes, which could result in a reduction in administrative costs. Improved information for regulators will allow for monitoring of the markets to track current industry practices, which will allow for better enforcement of current market regulations through more targeted audits that are based upon insurer responses. Additionally, reporting requirements and the threat of targeted audits will likely influence issuer behavior to motivate compliance. It is not possible to quantify the benefits at this time. The direct costs imposed by the regulation are the reporting requirements. These requirements are still being developed, and will be quantified in the regulation.

The other regulation will ensure that all insurers use a uniform, easily understood format for accurate summaries of benefits and coverage explanations. Together, these two regulations will improve availability of meaningful information about health insurance to consumers, enabling them to better assess the coverage they currently have and/or make choices among different coverage options. HHS estimates the benefits of this regulation to come from improved information for consumers and regulators, which will in turn result in a more efficient insurance market. Improved information for consumers will allow them to make better health insurance choices—to choose higher quality insurers and ones that more closely match their preferences with respect to plan design. This could result in increased satisfaction and decreased morbidity. It is not possible to quantify the benefits at this time. The direct costs imposed by the regulation are the creation and provision of summary documents to consumers at the time of application, prior to enrollment and at reenrollment. There will also be costs imposed by the creation of the coverage facts label section of the summary documents. These requirements are still being developed and will be quantified in the regulation.

2. Public Health and Nutrition

Three rules to be promulgated by the FDA in the upcoming fiscal year will propose new labeling requirements aimed at better disclosing to the public critical information to enable them to make informed decisions about food and drugs that they choose to consume. One proposed rule will require color graphics on cigarette packages depicting the health consequences of smoking. The largest benefits of this proposed rule stem from increased life expectancies for individuals who are induced not to smoke. Other quantifiable benefits come from reductions in cases of non-fatal emphysema, reductions in fire losses, and reductions in medical expenditures. Unquantifiable benefits come from reductions in smokers' non-fatal illnesses other than emphysema, reductions in passive smoking, and reductions in infant and child health effects due to mothers' smoking during pregnancy. Large, one-time costs will arise from the need to change cigarette package labels and remove point-of-sale promotions that do not comply with the new advertising restrictions.

Additionally, there will be smaller ongoing FDA enforcement costs.

Two other key rules will implement provisions of the Affordable Care Act that require certain chain restaurants and vending machine operators to disclose nutritional information about their offerings. In the case of chain restaurants, these businesses will bear the cost of analysis of their menu items for nutritional information where this analysis does not already exist, and the cost of revising existing menus and other displays to note the required information. In the case of vending machines, the bulk of the costs associated with this rule will be in managing the actual disclosure of calories at the machine. Because almost all vending machines sell food that is previously manufactured and packaged, most vended foods are subject to the Nutrition Labeling and Education Act, which means that calorie content is already collected. The requirements of these rules, specifically that calorie and other nutrition information appear at the point of purchase, solves the apparent market failure in information provision stemming from present-biased preferences.

3. Enhanced Insurance Appeal and External Review Processes Under the Affordable Care Act

With a goal of empowering patient consumers, the Affordable Care Act provides individuals with the right to appeal decisions made by their private health insurer to an outside, independent decisionmaker, regardless of consumers' State of residence or type of health insurance. One rule to be promulgated by the Department in FY 2011 will ensure that non-grandfathered plans and issuers comply with State or Federal external review processes. This rule will advance the Administration's objective of transparency by making certain that all consumers—regardless of whether their plan has grandfather status—are afforded an opportunity to appeal the decisions of their health carrier before an independent body. HHS estimates the benefits of the regulation to come from the transformation of the current, highly variable health claims and appeals process into a more uniform and structured process. This will result in a reduction in the incidence of excessive delays and inappropriate denials, averting serious, avoidable lapses in health care quality and resultant injuries and losses to participants; enhance enrollees' level of confidence in and satisfaction with their health care benefits and improve plans' awareness of participant concerns, prompting plan responses that improve quality; helping ensure prompt and precise adherence to contract terms and improving the flow of information between plans and enrollees to bolster the efficiency of labor, health care, and insurance markets. It is not possible to quantify these benefits at this time. The primary sources of costs are those required to administer and conduct the internal and external review process, prepare and distribute required disclosures and notices, and bring plan and issuers' internal and external claims and appeals procedures into compliance with the new requirements. In addition, there are start-up costs for issuers in the individual market to bring themselves into compliance and the costs and transfers associated with the reversal of denied claims. These costs are estimated to total $50.4 million in 2011, $78.8 million in 2012, and $101.1 million in 2013.

4. Notification Requirements for Long-Term Care Facility Closures

A rule to be promulgated by CMS in the upcoming fiscal year will require that, in the case of a long-term care facility closure, the facility administrator provides written notification of closure and the plan for the relocation of residents at least 60 days prior to the impending closing. Such transparency will afford patients and family members a greater opportunity to meaningfully participate in decisions regarding relocation. The costs associated with the implementation of this rule are related to the efforts made by each facility to develop a plan for closure. The benefits would include the protection of residents' health and safety and a smooth transition for residents who need to be relocated, as well as their family members and facility staff.

In addition to the aforementioned rules, the Department's regulatory priorities in the upcoming fiscal year include:

Eliminating Insurance Company Abuses Under the Affordable Care Act

The Affordable Care Act made important changes that will improve the affordability and transparency of private health insurance in the United States. Specifically, the law calls for the annual State review of unreasonable increases in health insurance premiums, which will help protect consumers from unjustified and/or excessive premium increases. In developing a process for the review of rate increases, HHS will propose standards for when and how health insurance issuers will be required to report rate increases, as well as detail the relevant data and documentation that must be submitted in support of rate increases. The proposed rule will detail criteria for how determinations of unreasonableness will be made by HHS and also sets forth the conditions under which HHS will adopt unreasonableness determinations made by States. The rule will also propose standards for when and how health insurance issuers must provide justifications for rate increases determined to be unreasonable and when such justifications must be posted on the issuer's website. It will explain that HHS will post information regarding rate increases on its website to ensure the public disclosure of information on rate increases, including increases determined to be unreasonable. Finally, the proposed rule will address the development by HHS of annual summaries of data on rate trends.

The CLASS Act and Improving Long-Term Care

The Department will promulgate a significant rule in FY 2011 that will improve the quality of long-term care for affected Americans. Implementation of the CLASS (Community Living Assistance Services and Support) Act will provide a new opportunity for all Americans to prepare themselves financially to remain independent under a variety of future health circumstances as they age. While this program may help reduce spending down to Medicaid, costs to implement the proposed regulation have not yet been estimated.

Food Safety

The Department is committed to improvements in our food safety system guided in part by the findings of the President's Food Safety Working Group, which adopted a public-health approach based on three core principles: Prioritizing prevention, strengthening surveillance and enforcement, and improving response and recovery if prevention fails. The goal of this new agenda is to shift emphasis away from mitigating public health harm by removing unsafe products from the market place to a new overriding objective—preventing harm by keeping unsafe food from entering commerce in the first place. As such, an FDA regulation will aim squarely at protecting the youngest and most vulnerable Americans by finalizing a modernization of existing requirements

on current good manufacturing practices for infant formula.

Streamlining Drug and Device Requirements

Two Food and Drug Administration (FDA) final rules will standardize the electronic submission of registrations and listings for devices, data from studies evaluating drugs and biologics for humans, and data on adverse events involving medical devices. Standardization of clinical data structure, terminology, and code sets will increase the efficiency of the Agency review process. FDA estimates that the costs resulting from the proposal would include substantial one-time costs, additional waves of one-time costs as standards mature, and possibly some annual recurring costs. One-time costs would include, among other things, the cost of converting data to standard structures, terminology, and cost sets (i.e., purchase of software to convert data); the cost of submitting electronic data (i.e., purchase of file transfer programs); and the cost of installing and validating the software and training personnel. Additional annual recurring costs may result from software purchases and licensing agreements for use of proprietary terminologies. The proposal could result in many long-term benefits associated with reduced time for preparing applications, including reduced preparation costs and faster time to market for beneficial products. In addition, the proposed rule would improve patient safety through faster, more efficient, comprehensive, and accurate data review, as well as enhanced communication among sponsors and clinicians.

Additionally, a new proposed rule will establish a unique identification system that will identify a device through distribution and use. FDA estimates that the affected industry would incur one-time and recurring costs, including administrative costs, to change and print labels that include the required elements of a unique device identifier (UDI), costs to purchase equipment to print and verify the UDI, and costs to purchase software, integrate and validate the UDI into existing IT systems. Certain entities would be required to submit information about each UDI and the relevant medical device into a database. FDA anticipates that implementation of a UDI system would help improve the efficiency of recalled medical devices and medical device adverse event reporting. The proposed rule would also standardize how medical devices are identified and contribute to future potential public health benefits of initiatives aimed at optimizing the use of automated systems in healthcare. Most of these benefits, however, require complementary developments and innovations in the private and public sectors. Together, these rules will enable the FDA to more quickly and efficiently process and review information submitted on devices, drugs, and biologics, furthering their ability to both better protect the public safety and more rapidly advance innovations to the market.

Medicare Modernization

The Regulatory Plan highlights three final rules that would adjust payment amounts under Medicare for physicians' services, hospital inpatient, and hospital outpatient services for fiscal year 2012. These new payment rules reflect continuing experience with regulating these systems and will implement modernizations to ensure that the Medicare program best serves its beneficiaries, fairly compensates providers, and remains fiscally sound. Additionally, another rule promulgated under the Affordable Care Act will propose a Medicare shared savings program for provider groups to establish Accountable Care Organizations and share in savings generated for Medicare by meeting certain benchmarks.

Health Information Technology

The Department will issue a rule that will modify the existing HIPAA privacy and security enforcement regulations to comply with the provisions of the HITECH Act. This rule will ensure that Americans can be confident that their medical data is kept private as the country increasingly moves to electronic health records. These modifications to the HIPAA Privacy, Security, and Enforcement Rules will benefit health care consumers by strengthening the privacy and security protections afforded their health information by HIPAA covered entities and their business associates. The Agency believes the primary cost associated with this regulation will be for covered entities to revise and redistribute their notices of privacy practices to ensure health care consumers are informed of their new rights and protections. The Agency estimates the cost of revising and redistributing these notices to total approximately $166.1 million over the first year following the effective date of the regulation. Of this total, the cost to health care providers is estimated to be approximately $46 million and to health plans to be approximately $120.1 million. The Agency does not believe that the additional modifications to the Privacy, Security, or Enforcement Rules required by this regulation will significantly increase covered entity or business associate costs. It is estimated that the changes to the HIPAA authorization and access requirements will impose little to no additional costs on covered entities and their business associates, and in some cases will reduce burden. Further, it is expected that the costs of modifying business associate contracts will be mitigated both by the additional one-year transition period which will allow the costs of modifying contracts to be incorporated into the normal renegotiation of contracts as the contracts expire, as well as sample business associate contract language to be provided by the Agency.

Head Start Program Integrity

The Department will finalize a rule in FY 2011 that will implement statutory requirements requiring a re-evaluation of Head Start grantees every 5 years to ensure that taxpayer dollars are spent in the most effective possible manner by this critical program. The Administration on Children and Families estimates the costs of implementing the new reporting requirements described in the rule will be approximately $20,000 annually. In addition, at least 25 percent of grantees reviewed in a year will be required to submit a competitive application for a new 5-year grant, at an estimated cost of less than $1,500 for each grantee. In terms of benefits, the proposed system will fund only high-performing grantees in order to ensure the best services for Head Start children are provided and child outcomes are improved.

Small Business Impact

Finally, HHS actively seeks to minimize regulatory burdens on small business. Over 95 per cent of the entities that we regulate – hospitals, doctors' practices, social service providers, medical device firms, universities and many others – qualify as ''small entities'' under the Regulatory Flexibility Act (RFA). All of the aforementioned actions have been developed in light of and with serious consideration of the small-business impact analysis.

HHS—Office of the Secretary (OS)

FINAL RULE STAGE

41. MODIFICATIONS TO THE HIPAA PRIVACY, SECURITY, AND ENFORCEMENT RULES UNDER THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

PL 111–5, secs 13400 to 13410

CFR Citation:

45 CFR 160; 45 CFR 164

Legal Deadline:

NPRM, Statutory, February 17, 2010.

Abstract:

The Department of Health and Human Services Office for Civil Rights will issue rules to modify the HIPAA Privacy, Security, and Enforcement Rules as necessary to implement the privacy, security, and certain enforcement provisions of subtitle D of the Health Information Technology for Economic and Clinical Health Act (title XIII of the American Recovery and Reinvestment Act of 2009).

Statement of Need:

The Office for Civil Rights will issue rules to modify the HIPAA Privacy, Security, and Enforcement Rules to implement the privacy and security provisions in sections 13400 to 13410 of the Health Information Technology for Economic and Clinical Health Act (title XIII of Division A of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5). These regulations will improve the privacy and security protection of health information.

Summary of Legal Basis:

Subtitle D of the Health Information Technology for Economic and Clinical Health Act (title XIII of the American Recovery and Reinvestment Act of 2009) requires the Office for Civil Rights to modify certain provisions of the HIPAA Privacy and Security Rules to implement sections 13400 to 13410 of the Act.

Alternatives:

The Office for Civil Rights is statutorily mandated to make modifications to the HIPAA Privacy and Security Rules to implement the privacy provisions at sections 13400 to 13410 of the Health Information Technology for Economic and Clinical Health Act (title XIII of the American Recovery and Reinvestment Act of 2009).

Anticipated Cost and Benefits:

These modifications to the HIPAA Privacy, Security, and Enforcement Rules will benefit health care consumers by strengthening the privacy and security protections afforded their health information by HIPAA covered entities and their business associated. The Agency believe the primary cost associate with this regulation will be for covered entities to revise and redistribute their notices of privacy practices to ensure health care consumers are informed of their new rights and protections. The Agency estimates the cost of revising and redistributing these notices to total approximates $166.1 million over the first year following the effective date of the regulation. Of this total, the cost heal care providers is estimated to be approximately $46 million and to health plans to be approximately $120.1 million. The Agency does not believe that the additional modification to Privacy, Security, or Enforcement Rules required by this regulation will significantly increase covered entity or business associates and in some cases will reduce burden. Further, it is expected that the costs of modifying business associate contracts will be mitigated both by the additional one-year transition period which will allow the costs of modifying contracts to be incorporated into the normal renegotiation of contracts as the contracts expire, as well as sample business associate contract language to be provided by the Agency.

Timetable:

Action	Date	FR Cite
Final Action	03/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

Federal, Local, State, Tribal

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HHS—Office of Consumer Information and Insurance Oversight (OCIIO)

PROPOSED RULE STAGE

42. ● TRANSPARENCY REPORTING

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

PL 111–148, title I, subtitle A, sec 1001 PHS Act, sec 2715A

CFR Citation:

45 CFR 153, Insurance Rules (sec 2715A)

Legal Deadline:

None

Abstract:

The Affordable Care Act requires group health plans and health insurance issuers to submit specific information to the Secretary, the State insurance commissioner, and to make the information available to the public. This includes information on claims payment policies, the number of claims denied, data on rating practices and other information as determined by the Secretary. The provision also requires plans and issuers to provide to individuals upon request the amount of cost sharing that the individual would be responsible for paying for a specific item or service provided by a participating provider. This interim final rule would implement information disclosure provisions in section 2715A of the Public Health Service Act, as added by the Affordable Care Act.

Statement of Need:

The Department of Health and Human Services, along with the Department of Labor and the Treasury Department, will issue interim final rules to implement the information disclosure

provisions in section 2715A of the Public Health Service Act, as added by the Affordable Care Act. This regulation will improve the transparency of information about how health coverage works so consumers will have better information to use and assess the coverage they have now, and/or make choices among different coverage options.

Summary of Legal Basis:

Title I, subtitle A, section 1001 of the Affordable Care Act adds section 2715A to the Public Health Service Act that will require group health plans and health insurance issuers to make certain disclosures to the Secretary, the State insurance commissioner, the public, and in some cases, individuals.

Alternatives:

None—statutory requirement.

Anticipated Cost and Benefits:

HHS estimates the benefits of this regulation to come from improved information for consumers and regulators, which will in tern result in a more efficient insurance market. Improved information for consumers will allow them to make better health insurance choices — to choose higher quality insurers and ones that more closely match their preferences with respect to plan design. This could result in increased satisfaction and decreased morbidity. In addition, consumers may be more likely to choose insurers with more efficient processes, which could result in a reduction in administrative costs. Improved information for regulators will allow for monitoring of the markets to track current industry practices, which will allow for better enforcement of current market regulations through more targeted audits that are based upon insurer responses. Additionally, reporting requirements and the threat of targeted audit will likely influence issuer behavior to motivate compliance. I is not possible to quantify the benefits at this time.

The direct costs imposed by the regulation are reporting requirements. These requirements are still being developed, and will be quantified in the regulation.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

Agency Contact:

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RIN: 0950–AA07

HHS—OCIIO

FINAL RULE STAGE

43. ● RATE REVIEW

Priority:

Other Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

PL 111–148

CFR Citation:

45 CFR 154

Legal Deadline:

None

Abstract:

The Affordable Care Act requires the Secretary to work with states to establish an annual review of unreasonable rate increases, to monitor premium increases and to award grants to states to carry out their rate review process. This interim final rule would implement the rate review process.

Statement of Need:

The Affordable Care Act requires standards to be set for the review of rate increases. The proposed rule will detail standards for when and how health insurance issuers will be required to report rate increases, as well as detail the relevant data and documentation that must be submitted in support of the rate increases. The proposed rule will detail criteria for how determinations of unreasonableness will be made by HHS, and also sets forth the conditions under which HHS will adopt unreasonableness determinations made by States. This regulation is part of the health insurance market reform and will increase affordability of health insurance for all Americans.

Summary of Legal Basis:

The Affordable Care Act.

Alternatives:

There are no alternatives, as this rulemaking is a matter of law based on the Affordable Care Act.

Anticipated Cost and Benefits:

HHS expects that costs associated with this rulemaking will be minimal as insurers routinely report to States on rate increases. Insurers may experience slight additional costs in connection with completion of policy rate data collection forms and any necessary submission of justification forms for rates that trigger unreasonable designations. The benefits of these requirements include increased consumer protections around unsubstantiated premium rate increases, reduced health insurance rate increases, increased transparency and consumer confidence in the products they buy, and ensuring financially solvent companies that can pay promised benefits.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/10	75 FR 45014
Interim Final Rule Comment Period End	09/28/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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HHS—OCIIO

44. ● UNIFORM EXPLANATION OF BENEFITS, COVERAGE FACTS, AND STANDARDIZED DEFINITIONS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

PL 111–148, title I, subtitle A, sec 1001 (Public Health Service Act, sec 2715)

CFR Citation:

45 CFR 153, Insurance Rules (sec 2715)

Legal Deadline:

None

Abstract:

The Affordable Care Act requires the Secretary to develop standards for use by group health plans and health insurance issuers in compiling and providing a summary of benefits and coverage explanation that accurately describes benefits and coverage. The Secretary must also set standards for the definitions of terms used in health insurance coverage, including specific terms set out in the statute. Plans and issuers must provide information according to these standards no later than 24 months after enactment. This interim final rule would implement the information disclosure provisions in section 2715 of PHSA , as added by the Affordable Care Act.

Statement of Need:

The Department of Health and Human Services, along with the Departments of Labor and the Treasury, will issue interim final rules to implement the information disclosure provisions in section 2715 of PHSA, as added by the Affordable Care Act. This regulation will provide consumers with a simplified and uniform overview of their benefits, specific ''Coverage Facts'' or scenarios for the costs of coverage for specific episodes of care, and standardized consumer-friendly health coverage definitions. This will allow consumers to better understand the coverage that they have and allow consumers choosing coverage to better compare coverage options.

Summary of Legal Basis:

Title I, subtitle A, section 1001, of the Affordable Care Act adds section 2715 to the Public Health Service Act that will require group health plans and health insurance issuers to provide a summary of benefits and coverage explanations and standardized definitions to applicants, enrollees, and policyholders.

Alternatives:

None—statutory requirement.

Anticipated Cost and Benefits:

HHS estimates the benefits of this regulation to come from improved information for consumers and regulators, which will in turn result in a more efficient insurance market. Improved information for consumers will allow them to make better health insurance choices—to chose higher quality insurers and ones that more closely match their preference with respect to plan design. This could result in increased satisfaction and decreased morbidity. It is not possible to quantify the benefits at this time.

The direct costs imposed by the regulation are the creation and provision of summary documents to consumers at the time of application, prior to enrollment and at re-enrollment. There will also be costs imposed by the creation of the coverage facts label section of the summary documents. These requirements are still being developed and will be quantified in the regulation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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HHS—Food and Drug Administration (FDA)

PROPOSED RULE STAGE

45. ELECTRONIC SUBMISSION OF DATA FROM STUDIES EVALUATING HUMAN DRUGS AND BIOLOGICS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

21 USC 355; 21 USC 371; 42 USC 262

CFR Citation:

21 CFR 314.50; 21 CFR 601.12; 21 CFR 314.94; 21 CFR 314.96

Legal Deadline:

None

Abstract:

The Food and Drug Administration is proposing to amend the regulations governing the format in which clinical study data and bioequivalence data are required to be submitted for new drug applications (NDAs), biological license applications (BLAs), and abbreviated new drug applications (ANDAs). The proposal would revise our regulations to require that data submitted for NDAs, BLAs, and ANDAs, and their supplements and amendments, be provided in an electronic format that FDA can process, review, and archive.

Statement of Need:

Before a drug is approved for marketing, FDA must determine that the drug is safe and effective for its intended use. This determination is based in part on clinical study data and bioequivalence data that are submitted as part of the marketing application. Study data submitted to FDA in electronic format have generally been more efficient to process and review.

FDA's proposed rule would address the submission of study data in a standardized electronic format. Electronic submission of study data would improve patient safety and enhance health care delivery by enabling FDA to process, review, and archive data more efficiently. Standardization would also enhance the ability to share study data and communicate results. Investigators and industry would benefit from the use of

standards throughout the lifecycle of a study—in data collection, reporting, and analysis. The proposal would work in concert with ongoing Agency and national initiatives to support increased use of electronic technology as a means to improve patient safety and enhance health care delivery.

Summary of Legal Basis:

Our legal authority to amend our regulations governing the submission and format of clinical study data and bioequivalence data for human drugs and biologics derives from sections 505 and 701 of the Act (U.S.C. 355 and 371) and section 351 of the Public Health Service Act (42 U.S.C. 262).

Alternatives:

FDA considered issuing a guidance document outlining the electronic submission and the standardization of study data, but not requiring electronic submission of the data in the standardized format. This alternative was rejected because the Agency would not fully benefit from standardization until it became the industry standard, which could take up to 20 years.

We also considered a number of different implementation scenarios, from shorter to longer time-periods. The 2-year time-period was selected because the Agency believes it would provide ample time for applicants to comply without too long a delay in the effective date. A longer time-period would delay the benefit from the increased efficiencies, such as standardization of review tools across applications, and the incremental cost savings to industry would be small.

Anticipated Cost and Benefits:

Standardization of clinical data structure, terminology, and code sets will increase the efficiency of the Agency review process. FDA estimates that the costs resulting from the proposal would include substantial one-time costs, additional waves of one-time costs as standards mature, and possibly some annual recurring costs. One-time costs would include, among other things, the cost of converting data to standard structures, terminology, and cost sets (i.e., purchase of software to convert data); the cost of submitting electronic data (i.e., purchase of file transfer programs); and the cost of installing and validating the software and training personnel. Additional annual recurring costs may result from software purchases and licensing agreements for use of proprietary terminologies. The proposal could result in many long-term benefits associated with reduced time for preparing applications, including reduced preparation costs and faster time to market for beneficial products. In addition, the proposed rule would improve patient safety through faster, more efficient, comprehensive and accurate data review, as well as enhanced communication among sponsors and clinicians.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	06/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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HHS—FDA

46. UNIQUE DEVICE IDENTIFICATION

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

15 USC 1451 to 1461; 21 USC 141 to 149, 321 to 394, 467f, 679, 821, 1034; 28 USC 2112; 42 USC 201 to 262, 263a and 263b, 264, 271, 364

CFR Citation:

21 CFR 16, 801, 803, 806, 810, 814, 820, 821,

Legal Deadline:

None

Abstract:

The Food and Drug Administration Amendments Act of 2007, amended the Federal Food, Drug, and Cosmetic Act by adding section 519(f) (21 U.S.C. 360i(f)). This section requires FDA to promulgate regulations establishing a unique identification system for medical devices requiring the label of medical devices to bear a unique identifier, unless FDA specifies an alternative placement or provides for exceptions. The unique identifier must adequately identify the device through distribution and use, and may include information on the lot or serial number.

Statement of Need:

A unique device identification system will help reduce medical errors; will allow FDA, the healthcare community, and industry to more rapidly review and organize adverse event reports; identify problems relating to a particular device (even down to a particular lot or batch, range of serial numbers, or range of manufacturing or expiration dates); and thereby allow for more rapid, effective, corrective actions that focus sharply on the specific devices that are of concern.

Summary of Legal Basis:

This rule is provided for/mandated by FDAAA. Section 519(f) of the FD&C Act (added by sec. 226 of the Food and Drug Administration Amendments Act of 2007) directs the Secretary to promulgate regulations establishing a unique device identification (UDI) system for medical devices, requiring the label of devices to bear a unique identifier that will adequately identify the device through its distribution and use.

Alternatives:

FDA considered several alternatives that allow certain requirements of the proposed rule to vary, such as the required elements of a UDI and the scope of affected devices.

Anticipated Cost and Benefits:

FDA estimates that the affected industry would incur one-time and recurring costs, including administrative costs, to change and print labels that include the required elements of a UDI, costs to purchase equipment to print and verify the UDI, and costs to purchase software, integrate and validate the UDI into existing IT systems. Certain entities would be required to submit information about each UDI and the relevant medical device into a database, FDA would incur costs to develop,

implement, and administer a database that would serve as a repository of information to facilitate the identification of medical devices through their distribution and use. FDA anticipates that implementation of a UDI system would help improve the efficiency of recalled medical devices and medical device adverse event reporting. The proposed rule would also standardize how medical devices are identified and contribute to future potential public health benefits of initiatives aimed at optimizing the use of automated systems in healthcare. Most of these benefits, however, require complementary developments and innovations in the private and public sectors.

Risks:

This rule is intended to substantially eliminate existing obstacles to the adequate identification of medical devices used in the Unites States. By providing the means to rapidly and definitely identify a device and key attributes that affect its safe and effective use, the rule would reduce medical errors that result from misidentification of a device or confusion concerning its appropriate use. The rule will fulfill a statutory directive to establish a unique device identification system.

Timetable:

Action	Date	FR Cite
NPRM	06/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Federalism:

Undetermined

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

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HHS—FDA

47. CIGARETTE WARNING LABEL STATEMENTS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

PL 111–31, The Family Smoking Prevention and Tobacco Control Act, sec 201

CFR Citation:

Not Yet Determined

Legal Deadline:

Final, Statutory, June 22, 2011.

Section 4 of the Federal Cigarette Labeling and Advertising Act (FCLAA), as amended by section 201 of the Family Smoking Prevention and Tobacco Control Act (the Tobacco Control Act), requires FDA to issue regulations no later than 24 months after the date of enactment of the Tobacco Control Act that require color graphics depicting the negative health consequences of smoking.

Abstract:

Section 4 of the FCLAA, as amended by section 201 of the Tobacco Control Act, requires FDA to issue regulations that require color graphics depicting the negative health consequences of smoking to accompany required warning statements. FDA also may adjust the type size, text and format of the required label statements on product packaging and advertising if FDA determines that it is appropriate so that both the graphics and the accompanying label statements are clear, conspicuous, legible and appear within the specified area.

Statement of Need:

This proposed rule is necessary to amend FDA's regulations to add a new requirement for the display of health warnings on cigarette packages and in cigarette advertisements and to specify the color graphics that must accompany each textual warning statement.

Summary of Legal Basis:

The proposed rule would implement a provision of the Tobacco Control Act that requires FDA to issue regulations requiring color graphics depicting the negative health consequences of smoking to accompany the nine new textual warning statements that will be required under the Tobacco Control Act. The Tobacco Control Act amends the FCLAA to require each cigarette package and advertisement to bear one of nine new textual warning statements.

Alternatives:

The Agency will compare the proposed rule to two hypothetical alternatives: An otherwise identical rule with a 24-month compliance period and an otherwise identical rule with a 6-month compliance period. Although we will compare the rule to two hypothetical alternatives, they are not viable regulatory options as they are inconsistent with FDA's statutory mandate.

Anticipated Cost and Benefits:

The largest benefits of this proposed rule stem from increased life expectancies for individuals who are induced not to smoke. Other quantifiable benefits come from reductions in cases of non-fatal emphysema, reductions in fire losses, and reductions in medical expenditures. Unquantifiable benefits come from reductions in smokers' non-fatal illnesses other than emphysema, reductions in passive smoking, and reductions in infant and child health effects due to mothers' smoking during pregnancy.Large, one-time costs will arise from the need to change cigarette package labels and remove point-of-sale promotions that do not comply with the new advertising restrictions. Additionally, there will be smaller ongoing FDA enforcement costs.

Risks:

This proposed rule would reduce the risk to the public by helping to clearly and effectively convey the negative health consequences of smoking on cigarette packages and in cigarette advertisements, which would help both to discourage non-smokers, including minor children, from initiating cigarette

use and to encourage current smokers to consider cessation.

Timetable:

Action	Date	FR Cite
NPRM	11/12/10	75 FR 69524
NPRM Comment Period End	01/11/11	
Final Action	06/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

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RIN: 0910–AG41

HHS—FDA

48. ● FOOD LABELING: NUTRITION LABELING FOR FOOD SOLD IN VENDING MACHINES

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

21 USC 343; 21 USC 371

CFR Citation:

Not Yet Determined

Legal Deadline:

NPRM, Statutory, March 23, 2011, Proposed rule to be published 1 year after enactment.

Abstract:

The Food and Drug Administration (FDA) is proposing regulations to establish requirements for nutrition labeling of food sold in vending machines. FDA is also proposing the terms and conditions for registering to voluntarily be subject to the requirements of section 4205. FDA is taking this action to carry out the provisions of section 4205 of the Patient Protection and Affordable Care Act (''Affordable Care Act'' or ''ACA''), which was signed into law on March 23, 2010.

Statement of Need:

This proposed rule was mandated by section 4205 of the Affordable Care Act.

Summary of Legal Basis:

On March 23, 2010, the Affordable Care Act (Pub. L. 111-148) was signed into law. Section 4205 amended 403(q)(5) of the Federal Food, Drug, and Cosmetic Act by creating new clause (H) to require that vending machine operators, who own or operate 20 or more machines, disclose calories for food items. FDA has the authority to issue this proposed rule under section 403(q)(5)(H) and 701(a) (21 U.S.C. 343(q)(5)(H), and 371(a)). Section 701(a) of the act vests the Secretary (and, by delegation, the FDA) with the authority to issue regulations for the efficient enforcement of the act.

Alternatives:

Section 4205 requires the Secretary (and, by delegation, the FDA) to establish, by regulation, requirements for calorie disclosure of food items for vending machine operators, who own or operate 20 or more machines. Therefore, there are no alternatives to rulemaking.

Anticipated Cost and Benefits:

The bulk of the costs associated with this rule will be in managing the actual disclosure of calories at the machine. Since almost all vending machines sell food that is previously manufactured and packaged, most vended foods are subject to the Nutrition Labeling Education Act, which means that calorie content is already collected. A likely scenario for response to vending machine labeling is that food manufacturers include a set of calorie label stickers in each case of product.

Since consumers of vended foods do not generally have access to nutrition information prior to purchase, requiring that operators make that information available should benefit consumers. Consumers may ignore future costs of overeating, relative to the current gains from eating, even when they understand the connection. Therefore, consumers do not generally demand calorie and other nutrition information for food away from home, even when they do, given a wider frame of reference, value that information. Given the costs and the uncertain reception for calorie information that many consumers appear not to care about, most vending machine operators have chosen not to display calorie information. The requirements of the proposed rule, specifically, that calorie and other nutrition information appear at the point of purchase, solves the apparent market failure in providing information provision stemming from present-biased preferences.

Risks:

For some vending machine foods, consumers cannot view the nutrition facts panel or otherwise see nutrition information prior to purchasing the item. Completion of this rulemaking will provide consumers information about the nutritional content of food to empower them to make healthier food choices from vending machines.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	
NPRM Comment Period End	06/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Federal, Local, State

Federalism:

Undetermined

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RIN: 0910–AG56

HHS—FDA

49. ● FOOD LABELING: NUTRITION LABELING OF STANDARD MENU ITEMS IN CHAIN RESTAURANTS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

21 USC 343; 21 USC 371

CFR Citation:

Not Yet Determined

Legal Deadline:

NPRM, Statutory, March 23, 2011, Proposed rule to be published 1 year after enactment.

Abstract:

The Food and Drug Administration (FDA) is proposing regulations to establish requirements for nutrition labeling of standard menu items for chain restaurants and similar retail food establishments. FDA is also proposing the terms and conditions for registering to voluntarily be subject to the requirements of section 4205. FDA is taking this action to carry out the provisions of section 4205 of the Patient Protection and Affordable Care Act (''Affordable Care Act'' or ''ACA''), which was signed into law on March 23, 2010.

Statement of Need:

This proposed rule was mandated by section 4205 of the Affordable Care Act.

Summary of Legal Basis:

On March 23, 2010, the Affordable Care Act (Pub. L. 111-148) was signed into law. Section 4205 amended 403(q)(5) of the Federal Food, Drug, and Cosmetic Act by creating new clause (H) to require that chain restaurants, with 20 or more locations, require certain nutrient disclosure. Specifically, section 4205 required the Secretary of Health and Human Services to issue a proposed regulation to carry out clause (H) of the ACA no later than 1 year of enactment of this clause (i.e., Mar. 23, 2011). FDA has the authority to issue this proposed rule under section 403(q)(5)(H) and 701(a) (21 U.S.C. 343(q)(5)(H), and 371(a)). Section 701(a) of the act vests the Secretary (and, by delegation, the FDA) with the authority to issue regulations for the efficient enforcement of the act.

As directed by section 4205, FDA is proposing requirements for menu calorie declaration, as well as other nutrition information declaration to implement the provisions of 403(q)(5)(H). FDA is also proposing the terms and conditions for registering to voluntarily be subject to the requirements of section 4205.

Alternatives:

Section 4205 requires the Secretary (and, by delegation, the FDA) to establish, by regulation, requirements for nutrition labeling of standard menu items for chain restaurants and similar retail food establishments. Therefore, there are no alternatives to rulemaking.

Anticipated Cost and Benefits:

Chain restaurants operating in local jurisdictions that impose different nutrition labeling requirements will benefit from having a uniform national standard. Any restaurant, with fewer than 20 locations, may opt in to the national standard to receive this benefit. Many chain restaurants, with 20 or more locations, will bear costs for adding nutrition information to menus and menu boards. Consumers will benefit from having important nutrition information for the approximately 30 per cent of calories consumed away from home.

Risks:

Americans now consume an estimated one-third of their total calories on foods prepared outside the home and spend almost half of their food dollars on such foods. Unlike packaged foods that are labeled with nutrition information, foods in restaurants, for the most part, do not have nutrition information. Completion of this rulemaking will provide consumers information about the nutritional content of food to empower them to make healthier food choices.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	
NPRM Comment Period End	06/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Federal, Local, State

Federalism:

Undetermined

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RIN: 0910–AG57

HHS—FDA

FINAL RULE STAGE

50. INFANT FORMULA: CURRENT GOOD MANUFACTURING PRACTICES; QUALITY CONTROL PROCEDURES; NOTIFICATION REQUIREMENTS; RECORDS AND REPORTS; AND QUALITY FACTORS

Priority:

Other Significant

Legal Authority:

21 USC 321; 21 USC 350a; 21 USC 371; . . .

CFR Citation:

21 CFR 106 and 107

Legal Deadline:

None

Abstract:

The Food and Drug Administration (FDA) is revising its infant formula regulations in 21 CFR parts 106 and 107 to establish requirements for current good manufacturing practices (CGMP), including audits; to establish requirements for quality factors; and to amend FDA's quality control procedures, notification, and record and reporting requirements for infant formula. FDA is taking this action to improve the protection of infants who consume infant formula products.

Statement of Need:

The agency published a proposed rule on July 9, 1996, that would establish current good manufacturing practice regulations, quality control procedures, quality factors, notification requirements, records and reports for the production of infant formula. This proposal was issued in response to the

1986 Amendments to the Infant Formula Act of 1980. On April 28, 2003, FDA reopened the comment period to update comments on the proposal. The comment was extended on June 27, 2003 and ended on August 26, 2003. The comment period was reopened on August 1, 2006 and ended on September 15, 2006.

Summary of Legal Basis:

The Infant Formula Act of 1980 (the 1980 Act) (Pub. L. 96-359) amended the Federal Food, Drug, and Cosmetic Act (the Act) to include section 412 (21 U.S.C. 350a). This law is intended to improve protection of infants consuming infant formula products by establishing greater regulatory control over the formulation and production of infant formula. In 1982, FDA adopted infant formula recall procedures in subpart D of 21 CFR part 107 of its regulations (47 FR 18832, Apr. 30, 1982), and infant formula quality control procedures in subpart B of 21 CFR part 106 (47 FR 17016, Apr. 20, 1982). In 1985, FDA further implemented the 1980 Act by establishing subparts B, C, and D in 21 CFR part 107 regarding the labeling of infant formula, exempt infant formulas, and nutrient requirements for infant formula, respectively (50 FR 1833, Jan. 14, 1985; 50 FR 48183, Nov. 22, 1985; and 50 FR 45106, Oct. 30, 1985).

In 1986, Congress, as part of the Anti-Drug Abuse Act of 1986 (Pub. L. 99-570) (the 1986 amendments), amended section 412 of the act to address concerns that had been expressed by Congress and consumers about the 1980 Act and its implementation related to the sufficiency of quality control testing, CGMP, recordkeeping, and recall requirements. The 1986 amendments: (1) State that an infant formula is deemed to be adulterated if it fails to provide certain required nutrients, fails to meet quality factor requirements established by the Secretary (and, by delegation, FDA), or if it is not processed in compliance with the CGMP and quality control procedures established by the Secretary; (2) require that the Secretary issue regulations establishing requirements for quality factors and CGMP, including quality control procedures; (3) require that infant formula manufacturers regularly audit their operations to ensure that those operations comply with CGMP and quality control procedure regulations; (4) expand the circumstances in which firms must make a submission to the Agency to include when there is a major change in an infant formula or a change that may affect whether the formula is adulterated; (5) specify the nutrient quality control testing that must be done on each batch of infant formula; (6) modify the infant formula recall requirements; and (7) give the Secretary authority to establish requirements for retention of records, including records necessary to demonstrate compliance with CGMP and quality control procedures. In 1989, the Agency implemented the provisions on recalls (secs. 412(f) and (g) of the act) by establishing subpart E in 21 CFR part 107 (54 FR 4006, Jan. 27, 1989). In 1991, the Agency implemented the provisions on record and record retention requirements by revising 21 CFR 106.100 (56 FR 66566, Dec. 24, 1991).

The Agency has already promulgated regulations that respond to a number of the provisions of the 1986 amendments. The final rule would address additional provisions of these amendments.

Alternatives:

The 1986 amendments require the Secretary (and, by delegation, FDA) to establish, by regulation, requirements for quality factors and CGMPs, including quality control procedures. Therefore, there are no alternatives to rulemaking.

Anticipated Cost and Benefits:

FDA estimates that the costs from the final rule to producers of infant formula would include first year and recurring costs (e.g., administrative costs, implementation of quality controls, records, audit plans and assurances of quality factors in new infant formulas). FDA anticipates that the primary benefits would be a reduced risk of illness due to Cronobacter sakazakii and Salmonella spp in infant formula. Additional benefits stem from the quality factors requirements that would assure the healthy growth of infants consuming infant formula. Monetized estimates of costs and benefits for this final rule are not available at this time. The analysis for the proposed rule estimated costs of less than $1 million per year. FDA was not able to quantify benefits in the analysis for the proposed rule.

Risks:

Special controls for infant formula manufacturing are especially important because infant formula, particularly powdered infant formula, is an ideal medium for bacterial growth and because infants are at high risk of foodborne illness because of their immature immune systems. In addition, quality factors are of critical need to assure that the infant formula supports healthy growth in the first months of life when infant formula may be an infant's sole source of nutrition. The provisions of this rule will address weaknesses in production that may allow contamination of infant formula, including, contamination with C. sakazakii and Salmonella spp which can lead to serious illness with devastating sequelae and/or death. The provisions would also assure that new infant formulas support healthy growth in infants.

Timetable:

Action	Date	FR Cite
NPRM	07/09/96	61 FR 36154
NPRM Comment Period End	12/06/96	
NPRM Comment Period Reopened	04/28/03	68 FR 22341
NPRM Comment Period Extended	06/27/03	68 FR 38247
NPRM Comment Period End	08/26/03	
NPRM Comment Period Reopened	08/01/06	71 FR 43392
NPRM Comment Period End	09/15/06	
Final Action	06/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

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Related RIN: Split from 0910–AA04

RIN: 0910–AF27

HHS—FDA

51. MEDICAL DEVICE REPORTING; ELECTRONIC SUBMISSION REQUIREMENTS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

21 USC 321, 331, 351, 352, 360c, 360e, 360i to 360j, 371, 374, 381, 393; 42 USC 264, 271

CFR Citation:

21 CFR 803

Legal Deadline:

None

Abstract:

The Food and Drug Administration (FDA) is amending its postmarket medical device reporting (MDR) regulations to require that manufacturers, importers, and user facilities submit mandatory reports of medical device adverse events to the Agency in an electronic format that FDA can process, review, and archive. FDA is taking this action to improve the Agency's systems for collecting and analyzing postmarketing safety reports. The proposed change would help the Agency to more quickly review safety reports and identify emerging public health issues.

Statement of Need:

The final rule would require user facilities and medical device manufacturers and importers to submit medical device adverse event reports in electronic format instead of using a paper form. FDA is taking this action to improve its adverse event reporting program by enabling it to more quickly receive and process these reports.

Summary of Legal Basis:

The Agency has legal authority under section 519 of the Federal Food, Drug, and Cosmetic Act to require adverse event reports. The final rule would require manufacturers, importers, and user facilities to change their procedures to send reports of medical device adverse events to FDA in electronic format instead of using a hard copy form.

Alternatives:

There are two alternatives. The first alternative is to allow the voluntary submission of electronic MDRs. If a substantial number of reporters fail to voluntarily submit electronic MDRs, FDA will not obtain the benefits of standardized formats and quicker access to medical device adverse event data. The second alternative is to allow small entities more time to comply. Because so many device companies are small entities, this would significantly postpone the benefits of the rule.

Anticipated Cost and Benefits:

The principal benefit would be to public health because the increased speed in the processing and analysis of 173,000 medical device reports currently submitted annually on paper. In addition, requiring electronic submission would reduce FDA annual operating costs by $1.9 million and generate industry savings of about $9.8 million.

The total one-time cost for modifying SOPs and establishing electronic submission capabilities is estimated to range from $81.4 million to $101.0 million. Annually recurring costs totaled $8.8 million and included maintenance of electronic submission capabilities, including renewing the electronic certificate, and for some firms, the incremental cost to maintain high-speed Internet access.

Risks:

None

Timetable:

Action	Date	FR Cite
NPRM	08/21/09	74 FR 42310
NPRM Comment Period End	11/19/09	
Final Action	06/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

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RIN: 0910–AF86

HHS—FDA

52. ELECTRONIC REGISTRATION AND LISTING FOR DEVICES

Priority:

Other Significant

Legal Authority:

PL 110–85; PL 107–188, sec 321; PL 107–250, sec 207; 21 USC 360(a) through 360(j); 21 USC 360(p)

CFR Citation:

21 CFR 807

Legal Deadline:

None

Abstract:

This rule will convert registration and listing to a paperless process. However, for those companies that do not have access to the Web, FDA will offer an avenue by which they can register, list, and update information with a paper submission. The rule also will amend part 807 to reflect the timeframes for device establishment registration and listing established by sections 222 and 223 of Food and Drug Administration Amendment Act (FDAAA) and to reflect the requirement in section 510(i) of the Act, as amended by section 321 of the Public Health Security and Bioterrorism Preparedness and Response Act (BT Act), that foreign establishments provide FDA with additional pieces of information as part of their registration.

Statement of Need:

FDA is amending the medical device establishment registration and listing requirements under 21 CFR part 807 to reflect the electronic submission requirements in section 510(p) of the Act, which was added by section 207 of MDUFMA and later amended by section 224 of FDAAA. FDA also is amending 21 CFR part 807 to reflect

the requirements in section 321 of the BT Act for foreign establishments to furnish additional information as part of their registration. This rule will improve FDA's device establishment registration and listing system and utilize the latest technology in the collection of this information.

Summary of Legal Basis:

The statutory basis for our authority includes sections 510(a) through (j), 510(p), 701, 801, and 903 of the Act.

Alternatives:

The alternatives to this rulemaking include not updating the registration and listing regulations. Because of the new FDAAA statutory requirements and the advances in data collection and transmission technology, FDA believes this rulemaking is the preferable alternative.

Anticipated Cost and Benefits:

The Agency believes that there may be some one-time costs associated with the rulemaking, which involve resource costs of familiarizing users with the electronic system. Recurring costs related to submission of the information by domestic firms would probably remain the same or decrease because a paper submission and postage is not required. There might be some increase in the financial burden on foreign firms since they will have to supply additional registration information as required by section 321 of the BT Act.

Risks:

None

Timetable:

Action	Date	FR Cite
NPRM	03/26/10	75 FR 14510
NPRM Comment Period End	06/24/10	
Final Rule	09/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

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RIN: 0910–AF88

HHS—Centers for Medicare & Medicaid Services (CMS)

PROPOSED RULE STAGE

53. ● REQUIREMENTS FOR LONG–TERM CARE FACILITIES: NOTIFICATION OF FACILITY CLOSURE (CMS–3230–IFC)

Priority:

Other Significant

Legal Authority:

PL 111–148, sec 6113

CFR Citation:

42 CFR 483; 42 CFR 488; 42 CFR 489

Legal Deadline:

Final, Statutory, March 23, 2011.

Abstract:

This rule would ensure that, in the case of a facility closure, any individual who is the administrator of the facility provides written notification of closure and the plan for the relocation of residents at least 60 days prior to the impending closure, or if the facility's participation in Medicare or Medicaid is terminated, not later than the date the HHS Secretary determines appropriate.

Statement of Need:

Section 6113 of the Affordable Care Act of 2010 (ACA) amends the Act by setting forth certain requirements for LTC facility closures to ensure that, among other things, in the case of a facility closure, any individual who is the administrator of the facility provides written notification of the closure and a plan for the relocation of residents at least 60 days prior to the impending closure or, if the Secretary terminates the facility's participation in Medicare or Medicaid, not later than the date the Secretary determines appropriate.

Summary of Legal Basis:

Sections 1819(b)(1)(A) of the Social Security Act (the Act) for NFs and 1919 (b)(1)(A) for SNFs state that a skilled nursing facility must care for its residents in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident. Sections 1819(c)(2)(A) and 1919 (c)(2)(A) of the Act state that, in general, with certain specified exceptions, a nursing facility must permit each resident to remain in the facility and must not transfer or discharge the resident from the facility. Section 6113 of ACA amends section 1128I of the Act by setting forth certain requirements for LTC facility closures.

Alternatives:

None. This implements a statutory requirement.

Anticipated Cost and Benefits:

The costs associated with the implementation of this rule are related to the efforts made by each facility to develop a plan for closure. The benefits would include the protection of residents' health and safety and a smooth transition for residents who need to be relocated, as well as their family members and facility staff.

Risks:

LTC facility closures have implications related to access, the quality of care, availability of services, and the overall health of residents. Without an organized process for facilities to follow in the event of a nursing home closure, there is a risk to the health and safety of residents.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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HHS—CMS

54. ● MEDICARE SHARED SAVINGS PROGRAM: ACCOUNTABLE CARE ORGANIZATIONS (CMS–1345–P)

Priority:

Other Significant

Legal Authority:

PL 111–148, sec 3022

CFR Citation:

Not Yet Determined

Legal Deadline:

Final, Statutory, January 1, 2012.

Abstract:

This rule would propose a shared savings program for provider groups to establish Accountable Care Organizations, agree to meet quality measures, and share in savings generated for Medicare by meeting certain benchmarks. Consistent with section 3022 of the Affordable Care Act of 2010, the shared savings program must be established by January 1, 2012.

Statement of Need:

This rule would propose a shared savings program for provider groups to establish Accountable Care Organizations (ACOs), agree to meet quality measures, and share in savings generated for Medicare by meeting certain cost and quality benchmarks beginning January 1, 2012. This rule is aimed at improving quality and Medicare expenditures for Medicare beneficiaries and the Medicare program.

Summary of Legal Basis:

Section 3022 of the Affordable Care Act of 2010 requires the Secretary to establish a shared savings program by January 1, 2012.

Alternatives:

None. This is a statutory requirement.

Anticipated Cost and Benefits:

Medicare expenditures will be adjusted beginning January 1, 2012.

Risks:

If this regulation is not published, the shared savings program will not be established by January 1, 2012, as required by ACA, thereby violating the statute.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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RIN: 0938–AQ22

HHS—CMS

55. ● PROPOSED CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEMS FOR ACUTE CARE HOSPITALS AND FY 2012 RATES AND TO THE LONG–TERM CARE HOSPITAL PPS AND RY 2012 RATES (CMS–1518–P)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

sec 1886(d) of the Social Security Act

CFR Citation:

42 CFR 412

Legal Deadline:

NPRM, Statutory, April 1, 2011.

Final, Statutory, August 1, 2011.

Abstract:

This annual major proposed rule would revise the Medicare hospital inpatient and long-term care prospective payment systems (IPPS) for operating and capital-related costs. This proposed rule would implement changes arising from our continuing experience with these systems.

Statement of Need:

CMS annually revises the Medicare hospital inpatient prospective payment systems (IPPS) for operating and capital-related costs to implement changes arising from our continuing experience with these systems. In addition, we describe the proposed changes to the amounts and factors used to determine the rates for Medicare hospital inpatient services for operating costs and capital-related costs. Also, CMS annually updates the payment rates for the Medicare prospective payment system (PPS) for inpatient hospital services provided by long-term care hospitals (LTCHs). The proposed rule solicits comments on the proposed IPPS and LTCH payment rates and new policies. CMS will issue a final rule containing the payment rates for the FY 2012 IPPS and LTCHs at least 60 days before October 1, 2011.

Summary of Legal Basis:

The Social Security Act (the Act) sets forth a system of payment for the operating costs of acute care hospital inpatient stays under Medicare Part A (Hospital Insurance) based on prospectively set rates. The Act requires the Secretary to pay for the capital-related costs of hospital inpatient and Long-Term Care stays under a PPS. Under these PPSs, Medicare payment for hospital inpatient and Long-Term Care operating and capital-related costs is made at predetermined, specific rates for each hospital discharge. These changes would be applicable to services furnished on or after October 1, 2011.

Alternatives:

None. This implements a statutory requirement.

Anticipated Cost and Benefits:

Total expenditures will be adjusted for FY 2012.

Risks:

If this regulation is not published timely, inpatient hospital and LTCH services will not be paid appropriately beginning October 1, 2011.

Timetable:

Action	Date	FR Cite
NPRM	04/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 0938–AQ24

HHS—CMS

56. ● REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE AND PART B FOR CY 2012 (CMS–1524–P)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

Social security Act, sec 1102; Social Security Act, sec 1871

CFR Citation:

42 CFR 405; 42 CFR 410 to 411; 42 CFR 413 to 414; 42 CFR 426

Legal Deadline:

Final, Statutory, November 1, 2011.

The statute requires that the final rule be issued by November.

Abstract:

This proposed rule would revise payment polices under the physician fee schedule, as well as other policy changes to payment under Part B. These changes would be applicable to services furnished on or after January 1, annually.

Statement of Need:

The statute requires that we establish each year, by regulation, payment amounts for all physicians' services furnished in all fee schedule areas. This major proposed rule would make changes affecting Medicare Part B payment to physicians and other Part B suppliers.

The final rule has a statutory publication date of November 1, 2011, and an implementation date of January 1, 2012.

Summary of Legal Basis:

Section 1848 of the Social Security Act (the Act) establishes the payment for physician services provided under Medicare. Section 1848 of the Act imposes a deadline of no later than November 1 for publication of the final physician fee schedule rule.

Alternatives:

None. This implements a statutory requirement.

Anticipated Cost and Benefits:

Total expenditures will be adjusted for CY 2012.

Risks:

If this regulation is not published timely, physician services will not be paid appropriately.

Timetable:

Action	Date	FR Cite
NPRM	06/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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HHS—CMS

57. ● CHANGES TO THE HOSPITAL OUTPATIENT PROSPECTIVE PAYMENT SYSTEM AND AMBULATORY SURGICAL CENTER PAYMENT SYSTEM FOR CY 2012 (CMS–1525–P)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

sec 1833 of the Social Security Act

CFR Citation:

42 CFR 410; 42 CFR 416 ; 42 CFR 419

Legal Deadline:

Final, Statutory, November 1, 2011.

Abstract:

This proposed rule would revise the Medicare hospital outpatient prospective payment system to implement applicable statutory requirements and changes arising from our continuing experience with this system. The proposed rule also describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule proposes changes to the Ambulatory Surgical Center Payment System list of services and rates.

Statement of Need:

Medicare pays over 4,000 hospitals for outpatient department services under the hospital outpatient prospective payment system (OPPS). The OPPS is based on groups of clinically similar services called ambulatory payment classification groups (APCs). CMS annually revises the APC payment amounts based on the most recent claims data, proposes new payment policies, and updates the payments for inflation using the hospital operating market basket. The proposed rule solicits comments on the proposed OPPS payment rates and new policies. Medicare pays roughly 5,000 Ambulatory Surgical Centers (ASCs) under the ASC payment system. CMS annually revises the payment under the ASC payment system, proposes new policies, and updates payments for inflation using the Consumer Price Index for All Urban Consumers (CPI-U). CMS will issue a final rule containing the payment rates for the 2012 OPPS and ASC payment system at least 60 days before January 1, 2012.

Summary of Legal Basis:

Section 1833 of the Social Security Act establishes Medicare payment for hospital outpatient services and ASC services. The final rule revises the Medicare hospital OPPS and ASC payment system to implement applicable statutory requirements. In addition, the proposed and final rules describe changes to the outpatient APC system, relative payment weights, outlier adjustments, and other amounts and factors used to determine the payment rates for Medicare hospital outpatient services paid under the

prospective payment system as well as changes to the rates and services paid under the ASC payment system. These changes would be applicable to services furnished on or after January 1, 2012.

Alternatives:

None. This is a statutory requirement.

Anticipated Cost and Benefits:

Total expenditures will be adjusted for CY 2012.

Risks:

If this regulation is not published timely, outpatient hospital and ASC services will not be paid appropriately beginning January 1, 2012.

Timetable:

Action	Date	FR Cite
NPRM	06/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

Federalism:

Undetermined

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HHS—CMS

FINAL RULE STAGE

58. ● CIVIL MONEY PENALTIES FOR NURSING HOMES (CMS–2435–F)

Priority:

Other Significant

Legal Authority:

42 USC 1302 and 1395 (hh)

CFR Citation:

42 CFR 488

Legal Deadline:

Final, Statutory, March 23, 2011, 1 year after enactment of PPACA.

Abstract:

This rule revises and expands current Medicare and Medicaid regulations regarding the imposition of civil money penalties by CMS when nursing homes are not in compliance with Federal participation requirements.

Statement of Need:

The intent of this final rule is to improve the efficiency and effectiveness of the nursing home enforcement process, particularly as it relates to civil money penalties imposed by CMS. The new provisions will reduce the delay between the identification of problems with noncompliance and the effect of certain penalties that are intended to motivate a nursing home to maintain continuous compliance with basic expectations regarding the provision of quality care. The new provisions also eliminate a facility's ability to significantly defer the direct financial effect of an applicable civil monetary penalty until after an often long litigation process. Specifically, this rule would allow for civil money penalty reductions when facilities self-report and promptly correct their noncompliance; offer, in cases where civil money penalties are imposed, an independent informal dispute resolution process where interests of both facilities and residents are represented and balanced; provide for the establishment of an escrow account where civil money penalties may be placed until any applicable administrative appeal processes have been completed; and improve the extent to which civil money penalties collected from Medicare facilities can benefit nursing home residents. Through the proposed revisions, we intend to directly promote and improve the health, safety, and overall well-being of residents.

Summary of Legal Basis:

Section 6111 of the Affordable Care Act of 2010 amended the Act to incorporate specific provisions pertaining to the imposition and collection of civil money penalties when facilities do not meet Medicare and Medicaid participation requirements.

Alternatives:

None. This rule implements a statutory requirement. The proposed rule was published on July 12, 2010. Alternatives proposed by commenters will be considered in the preparation of the final rule.

Anticipated Cost and Benefits:

The regulatory impact statement provides that these regulatory proposals would have no consequential effect on State, local, or tribal governments or on the private sector. The anticipated benefits of this regulation include stronger protections for nursing home residents, improved due process for nursing homes, incentives for prompt self-correction of deficiencies, and increased quality improvement.

Risks:

CMS does not expect any additional risks to providers and/or States as a result of the implementation of this rule.

Timetable:

Action	Date	FR Cite
NPRM	07/12/10	75 FR 39641
NPRM Comment Period End	08/11/10	
Final Action	03/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State

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HHS—Administration for Children and Families (ACF)

PROPOSED RULE STAGE

59. DESIGNATION RENEWAL OF HEAD START GRANTEES

Priority:

Other Significant

Legal Authority:

Improving Head Start for School Readiness Act of 2007, PL 110–134

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

This rule would implement provisions of the Improving Head Start for School Readiness Act of 2007 (Pub. L. 110-134), requiring the Secretary to develop a system that will evaluate each grantee's performance every 5 years to determine which grantees are providing services of such high quality that they should be given another 5-year grant without needing to recompete for the grant.

Statement of Need:

The Administration for Children and Families will issue rules to amend 45 CFR chapter XIII by adding a new part 1307, Policies and Procedures for Designation Renewal of Head Start and Early Head Start Grantees, in order to respond to the statutory requirements of The Improving Head Start for School Readiness Act of 2007, which establishes that Head Start grantees will be awarded grants for a 5-year period and only grantees delivering high quality services will be given another 5-year grant non-competitively. These regulations will describe the proposed system for designation renewal, including a proposal to transition all current continuous grants into 5-year grants over a 3-year period. These regulations will encourage excellence, establish accountability for poor performance, and open up Head Start to new energetic organizations that may have great capacity to run high quality programs.

Summary of Legal Basis:

Section 641 of the Head Start Act requires the Secretary of HHS to develop and implement a system for designation renewal (e.g., Designation Renewal System (DRS)) to determine if a Head Start agency is delivering a high-quality and comprehensive Head Start program that meets the educational, health, nutritional, and social needs of the children and families it serves and publish a notice in the Federal Register describing a proposed system for designation renewal, including a proposal for the transition to such system.

Alternatives:

The Administration for Children and Families is statutorily mandated to develop and implement a system for designation renewal. As a precursor to developing the system, the Head Start Act required the Secretary to establish an Advisory Committee to inform the development of a DRS and make recommendations to the Secretary. We are proposing to adopt the majority of the Advisory Committee's recommendations in whole or with minor modifications. In addition, we are considering additional and alternative criteria to be incorporated into the system for designation renewal, and ask for public comments regarding numerous provisions of the rule, as described in the preamble.

Anticipated Cost and Benefits:

The Agency estimates the costs of implementing the new reporting requirements described in the rule will be approximately $20,000 annually. In addition, at least 25 percent of grantees reviewed in a year will be required to submit a competitive application for a new 5-year grant, at an estimated cost of less than $1,500 for each grantee. In terms of benefits, the proposed system will fund only high-performing grantees in order to ensure the best services for Head Start children are provided and child outcomes are improved.

Timetable:

Action	Date	FR Cite
NPRM	09/22/10	75 FR 57704
NPRM Comment Period End	12/21/10	
Final Action	09/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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HHS—Administration on Aging (AOA)

PROPOSED RULE STAGE

60. ● COMMUNITY LIVING ASSISTANCE SERVICES AND SUPPORTS ENROLLMENT AND ELIGIBILITY RULES UNDER THE AFFORDABLE CARE ACT

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

PL 111–148, sec 8002

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

The Department of Health and Human Services will issue rules to implement the Community Living Assistance Services and Supports (CLASS) program included in the Affordable Care Act. Specifically, the rules will define the enrollment and eligibility criteria for the program. Participation in the program is voluntary.

Statement of Need:

About 14 million people spend more than $230 billion a year on long-term services and supports to assist them with daily living. Four times that many rely solely on unpaid care provided by family and friends. Medicare does not pay for long-term care, and while Medicaid is the largest public payer of these services, it is only available for people with few other resources. The CLASS program represents a significant new opportunity for all Americans to prepare themselves financially to remain as independent as possible under a variety of future health circumstances.

Summary of Legal Basis:

Section 8002 of Public Law 111-148 (Affordable Care Act) requires the promulgation of regulations to implement the CLASS program. Specifically, the law states, ''[t]he Secretary shall promulgate such regulations as are necessary to carry out the CLASS program in accordance with this title. Such regulations shall include provisions to prevent fraud and abuse under the program.''

Alternatives:

Under the law, the Secretary, in consultation with appropriate actuaries and other experts, will develop at least three actuarially sound benefit plans as alternatives for consideration for designation by the Secretary as the CLASS Independence Benefit Plan. Under the law, the Secretary will designate the final benefit plan by October 1, 2012.

Anticipated Cost and Benefits:

The program will help Americans prepare themselves financially to remain as independent as possible under a variety of future health circumstances and their financial independence may help reduce spending down to Medicaid. Costs to implement the proposed regulation have not yet been estimated.

Timetable:

Action	Date	FR Cite
NPRM	09/00/11	
Final Action	10/00/12	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

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BILLING CODE 4150–24–S

DEPARTMENT OF HOMELAND SECURITY (DHS)

Statement of Regulatory Priorities

The Department of Homeland Security (DHS) was created in 2003 pursuant to the Homeland Security Act of 2002, Public Law 107-296. DHS has a vital mission: To secure the nation from the many threats we face. This requires the dedication of more than 225,000 employees in jobs that range from aviation and border security to emergency response, from cybersecurity analyst to chemical facility inspector. Our duties are wide-ranging, but our goal is clear—keeping America safe.

Our mission gives us five main areas of responsibility:

1. Guarding against Terrorism;
2. Securing our Borders;
3. Enforcing our Immigration Laws;
4. Improving our Readiness for, Response to, and Recovery from Disasters; and
5. Maturing and Unifying the Department.

In achieving these goals, we are continually strengthening our partnerships with communities, first responders, law enforcement, and government agencies—at the State, local, tribal, Federal, and international levels. We are accelerating the deployment of science, technology, and innovation in order to make America more secure, and we are becoming leaner, smarter, and more efficient, ensuring that every security resource is used as effectively as possible. For a further discussion of our five main areas of responsibility, see the DHS website at http://www.dhs.gov/xabout/responsibilities.shtm.

The regulations we have summarized below in the Department's fall 2010 regulatory plan and in the Unified Agenda support the Department's five responsibility areas listed above. These regulations will improve the Department's ability to accomplish its mission.

The regulations we have identified in this year's fall regulatory plan continue to address legislative initiatives including, but not limited to, the following acts: The Implementing Recommendations of the 9/11 Commission Act of 2008 (9/11 Act), Public Law 110-53 (Aug. 3, 2007); the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA), Public Law 109-295 (Oct. 4, 2006); the Consolidated Natural Resources Act of 2008 (CNRA), Public Law No. 110-220 (May 7, 2008); the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law 109-347 (Oct. 13, 2006); and the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Public Law 110-329 (Sep. 30, 2008).

DHS strives for organizational excellence and uses a centralized and unified approach in managing its regulatory resources. The Office of the General Counsel manages the Department's regulatory program, including the Unified Agenda and The Regulatory Plan. In addition, DHS senior leadership reviews each significant regulatory project to ensure that the project fosters and supports the Department's mission.

DHS is committed to ensuring that all of its regulatory initiatives are aligned with its guiding principles to protect civil rights and civil liberties, integrate our actions, build coalitions and partnerships, develop human resources, innovate, and be accountable to the American public. DHS is also committed to the principles described in Executive Order 12866, as amended, such as promulgating regulations that are cost-effective and maximizing the net benefits of regulations. The Department values public involvement in the development of its regulatory plan, agenda, and regulations, and takes particular concern with the impact its rules have on small businesses. DHS and each of its components continue to emphasize the use of plain language in our notices and rulemaking documents to promote a better understanding of regulations and increased public participation in the Department's rulemakings.

The fall 2010 Regulatory Plan for DHS includes regulations from DHS components—including U.S. Citizenship and Immigration Services (USCIS), the U.S. Coast Guard (Coast Guard), U.S. Customs and Border Protection (CBP), the Federal Emergency Management Agency (FEMA), the U.S. Immigration and Customs Enforcement (ICE), and the Transportation Security Administration (TSA), which have active regulatory programs. In addition, it includes regulations from the Department's major offices and directorates such as the National Protection and Programs Directorate (NPPD). Below is a discussion of the fall 2010 regulatory plan for DHS regulatory components, as well as for DHS offices and directorates.

United States Citizenship and Immigration Services

U.S. Citizenship and Immigration Services (USCIS) administer immigration benefits and services while protecting homeland security. USCIS has a strong commitment to welcoming individuals who seek entry through the U.S. immigration system, providing clear and useful information regarding the immigration process, promoting the values of citizenship, and assisting those in need of humanitarian protection. Based on a comprehensive review of the planned USCIS regulatory agenda, USCIS will promulgate several rulemakings to directly support these commitments and goals.

Regulations Related to the Commonwealth of Northern Mariana Islands

During 2009, USCIS issued a series of regulations to implement the extension of U.S. immigration law to the Commonwealth of Northern Mariana Islands (CNMI), as required under title VII of the Consolidated Natural Resources Act of 2008. USCIS will issue the following CNMI final rules during fiscal year 2011: ''CNMI Transitional Worker Classification,'' ''E-2 Nonimmigrant Status for Aliens of the CNMI with Long-Term Investor Status,'' and the joint USCIS/Department of Justice (DOJ) regulation ''Application of Immigration Regulations to the CNMI.''

Improvements to the Immigration System

USCIS is currently engaged in a multi-year transformation effort to create a more efficient, effective, and customer-focused organization by improving our business processes and technology. In the coming years, USCIS will publish several rules to facilitate that effort. To improve customer service specifically, USCIS is pursuing a regulatory initiative that will provide for selection of visa numbers by lottery for H-1B petitions based on electronic registration.

Registration Requirements for Employment-Based Categories Subject to Numerical Limitations

USCIS will propose a revised registration process for H-1B petitioners who are subject to a numerical limit or ''cap.'' The rule would propose to create a process by which USCIS would randomly select a sufficient number of timely filed registrations to meet the applicable cap. Only petitioners whose registrations are randomly selected would be eligible to file an H-1B petition for a cap-subject prospective worker. Enhancing customer service, the

rule would eliminate the need for petitioning employers to prepare and file complete H-1B petitions before knowing whether a prospective worker has ''won'' the H-1B lottery. The rule would also reduce the costs incurred by USCIS in entering data and subsequently returning non-selected petitions to employers once the cap is reached.

Regulatory Changes Involving Humanitarian Benefits

USCIS offers protection to individuals who face persecution by adjudicating applications for refugees and asylees. Other humanitarian benefits are available to individuals who have been victims of severe forms of trafficking or criminal activity.

Asylum and Withholding Definitions

USCIS plans a regulatory proposal to amend the regulations that govern asylum eligibility. The amendments are expected to focus on portions of the regulations that deal with determinations of whether persecution is inflicted on account of a protected ground, the requirements for establishing the failure of State protection, and the definition of membership in a particular social group. This effort should provide greater stability and clarity in this important area of the law.

Exception to the Persecution Bar for Asylum, Refugee, or Temporary Protected Status, and Withholding of Removal

DHS, in a joint rulemaking with DOJ, will propose amendments to existing DHS and DOJ regulations to resolve ambiguity in the statutory language precluding eligibility for asylum, refugee resettlement, temporary protected status, and withholding of removal of an applicant who ordered, incited, assisted, or otherwise participated in the persecution of others. The proposed rule would provide a limited exception for persecutory actions taken by the applicant under duress and clarify the required levels of the applicant's knowledge of the persecution.

''T'' and ''U'' Nonimmigrants

USCIS plans additional regulatory initiatives related to T nonimmigrants (victims of trafficking), U nonimmigrants (victims of criminal activity), and Adjustment of Status for T and U status holders. By promulgating additional regulations related to these victims of specified crimes or severe forms of human trafficking, USCIS hopes to provide greater stability for these vulnerable groups, their advocates, and the community. These rulemakings will contain provisions that seek to ease documentary requirements for this vulnerable population and provisions that provide greater clarity to the law enforcement community. In addition, publication of these rules will inform the community about how their petitions are adjudicated.

United States Coast Guard

The U.S. Coast Guard (Coast Guard) is a military, multi-mission, maritime service of the United States and the only military organization within DHS. It is the principal Federal agency responsible for maritime safety, security, and stewardship and delivers daily value to the Nation through multi-mission resources, authorities, and capabilities.

Effective governance in the maritime domain hinges upon an integrated approach to safety, security, and stewardship. The Coast Guard's policies and capabilities are integrated and interdependent, delivering results through a network of enduring partnerships. The Coast Guard's ability to field versatile capabilities and highly-trained personnel is one of the U.S. Government's most significant and important strengths in the maritime environment.

America is a maritime nation, and our security, resilience, and economic prosperity are intrinsically linked to the oceans. Safety, efficient waterways, and freedom of transit on the high seas are essential to our well-being. The Coast Guard is leaning forward, poised to meet the demands of the new millennium. The Coast Guard creates value for the public through solid prevention and response efforts. Activities involving oversight and regulation, enforcement, maritime presence, and public and private partnership foster increased maritime safety, security, and stewardship.

The statutory responsibilities of the Coast Guard include ensuring marine safety and security, preserving maritime mobility, protecting the marine environment, enforcing U.S. laws and international treaties, and performing search and rescue. The Coast Guard supports the Department's overarching goals of mobilizing and organizing our Nation to secure the homeland from terrorist attacks, natural disasters, and other emergencies. The rulemaking projects identified for the Coast Guard in the Unified Agenda, and the rules appearing in the fall 2010 Regulatory Plan below, contribute to the fulfillment of those responsibilities and reflect our regulatory policies. The Coast Guard's rulemaking projects support maritime safety, security, and environmental protection as indicated by the wide range of topics covered in its rulemaking projects in this Unified Agenda.

Inspection of Towing Vessels

In 2004, Congress amended U.S. law by adding towing vessels to the types of commercial vessels that must be inspected by the Coast Guard. Congress also provided guidance relevant to the use of a safety management system as part of the inspection regime. The intent of the proposed rule is to promote safer work practices and reduce casualties on towing vessels by ensuring that towing vessels adhere to prescribed safety standards and safety management systems. The proposed rule was developed in cooperation with the Towing Vessel Safety Advisory Committee (TSAC). It would establish a new subchapter dedicated to towing vessels and covering vessel equipment, systems, operational standards, and inspection requirements. To implement this change, the Coast Guard is developing regulations to prescribe standards, procedures, tests, and inspections for towing vessels. This rulemaking supports maritime safety and maritime stewardship.

Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters

This rule would set performance standards for the quality of ballast water discharged in U.S. waters and require that all vessels that operate in U.S. waters and are bound for ports or places in the U.S. and are equipped with ballast tanks, install and operate a Coast Guard approved Ballast Water Management System (BWMS) before discharging ballast water into U.S. waters. This would include vessels bound for offshore ports or places. As the effectiveness of ballast water exchange varies from vessel to vessel, the Coast Guard believes that setting performance standards would be the most effective way for approving BWMS that are environmentally protective and scientifically sound. Ultimately, the approval of BWMS would require procedures similar to those located in title 46, subchapter Q, of the Code of Federal Regulations, to ensure that the BWMS works, not only in the laboratory, but also under shipboard conditions. These would include: Pre-approval requirements, application requirements, land-based/shipboard

testing requirements, design and construction requirements, electrical requirements, engineering requirements, and piping requirements. This requirement is intended to meet the requirements of the National Invasive Species Act (NISA). Ballast water discharged from ships is a significant pathway for the introduction and spread of non-indigenous aquatic nuisance species. These organisms, which may be plants, animals, bacteria, or pathogens, have the potential to displace native species, degrade native habitats, spread disease, and disrupt human economic and social activities that depend on water resources. This rulemaking supports maritime stewardship.

Outer Continental Shelf Activities

The Coast Guard is revising regulations to address new developments in the offshore industry, to fully address existing legislation, to effectively implement interagency agreements, to respond to comments received from the notice of proposed rulemaking (Outer Continental Shelf Activities, 64 FR 68416 (Dec. 7, 1999), and to update security requirements and procedures. This proposed rule would improve the level of safety in the workplace and security for personnel and units engaged in Outer Continental Shelf (OCS) activities. The Coast Guard is the lead Federal agency for OCS workplace safety and health—other than for matters generally related to drilling and production that are regulated by the Bureau of Ocean Energy Management, Regulation, and Enforcement—on facilities and vessels engaged in the exploration for, or development or production of, minerals on the OCS. The last major revision of the Coast Guard's OCS regulations occurred in 1982. At that time, the offshore industry was not as technologically advanced as it is today. Offshore activities were in relatively shallow water near land, where help was readily available during emergency situations. The regulations required only basic equipment, primarily for lifesaving appliances and hand-held portable fire extinguishers. Since 1982, the requirements in 33 CFR chapter I, subchapter N, have not kept pace with the changing offshore technology or the safety problems it creates as OCS activities extend to deeper water (10,000 feet) and move farther offshore (150 miles). This rulemaking would reassess all of the Coast Guard's current OCS regulations in order to help make the OCS a safer workplace, and it supports the Commandant's strategic goals of marine safety and environmental stewardship.

Updates to 33 CFR Subchapter H—Maritime Security.

The intent of this rulemaking is to strengthen security of our Nation's ports, vessels, facilities, and Outer Continental Shelf facilities by incorporating clarifications realized since the original Maritime Transportation Security Act (MTSA) regulations of 2003, Security and Accountability for Every Port Act of 2006 (SAFE Port Act) requirements, and the Coast Guard and Maritime Transportation Act of 2006.This proposed rule would incorporate feedback received from industry stakeholders, Coast Guard field units, and the public since the original MTSA regulations came into effect in 2003. The proposed rule would also consolidate into regulation appropriate actions promulgated in a series of Policy Advisory Council (PAC) papers, Navigation and Inspection Circulars (NVICs), and MTSA Help Desk responses; address screening standards for port facilities and vessels; establish security training standards that will be modeled after the courses developed by the Maritime Administration (MARAD); and the training standards (mandatory and non-mandatory) and courses developed by the International Maritime Organization (IMO). It would also update existing regulations regarding the areas of maritime security plans, facility and vessel security plans, and facility exercise requirements in the SAFE Port Act of 2006. This rulemaking supports the Commandant's strategic goal of maritime security.

Assessment Framework and Organizational Restatement Regarding Preemption for Certain Regulations Issued by the Coast Guard

This rule would restate the preemptive effect of existing Coast Guard regulations and articulate the assessment framework for evaluating the preemptive effect of future regulations. This rule would not alter the preemptive effect of any regulation: It would merely restate the existing law. By clarifying the preemptive effect of Coast Guard regulations, the Coast Guard intends to increase transparency, encourage appropriate State regulation, and avoid or reduce litigation related to State and local attempts to regulate in preempted areas. In doing so, the Coast Guard intends to comply with the May 2009 presidential memoranda on preemption, and on transparency and open government, and also intends to reinforce a uniform maritime regulatory regime that is predictable and useful for maritime interests. The Coast Guard expects no additional cost impacts to the industry from this rule, because it only restates and clarifies the status of Federal and State law as it exists.

The following Coast Guard rulemakings may be of particular interest to small entities:

Inspection of Towing Vessels

Based on preliminary analysis, the Coast Guard determined 1,059 operators of 5,208 uninspected towing vessels would incur additional costs from this rulemaking and over 92 percent of these entities are small businesses. This rulemaking would require operators of previously uninspected towing vessels to incur the costs of becoming regulated under a new inspection regime.

Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters

Based on preliminary analysis in the notice of proposed rulemaking (74 FR 44632), the Coast Guard determined 850 U.S. operators of 2,616 vessels would incur additional costs from this rulemaking and over 57 percent of these entities are small businesses. This rulemaking would require operators to purchase and install ballast water management systems costing between $258,000 and $419,000 per vessel, depending vessel and technology type.

Updates to 33 CFR Subchapter H—Maritime Security

Based on preliminary analysis, the Coast Guard determined that 55 percent of operators affected by this rulemaking are small entities. This rulemaking would require operators to incur additional costs for training and exercise provisions.

United States Customs and Border Protection

U.S. Customs and Border Protection (CBP) is the Federal agency principally responsible for the security of our Nation's borders, both at and between the ports of entry and at official crossings into the United States. CBP must accomplish its border security and enforcement mission without stifling the flow of legitimate trade and travel. The primary mission of CBP is its homeland security mission, that is, to prevent terrorists and terrorist weapons from entering the United States. An important aspect of this priority mission involves improving security at our borders and ports of entry, but it also means extending our zone of security beyond our physical borders.

CBP is also responsible for administering laws concerning the

importation into the United States of goods and enforcing the laws concerning the entry of persons into the United States. This includes regulating and facilitating international trade; collecting import duties; enforcing U.S. trade, immigration, and other laws of the United States at our borders; inspecting imports, overseeing the activities of persons and businesses engaged in importing; enforcing the laws concerning smuggling and trafficking in contraband; apprehending individuals attempting to enter the United States illegally; protecting our agriculture and economic interests from harmful pests and diseases; servicing all people, vehicles, and cargo entering the United States; maintaining export controls; and protecting U.S. businesses from theft of their intellectual property.

In carrying out its priority mission, CBP's goal is to facilitate the processing of legitimate trade and people efficiently without compromising security. Consistent with its primary mission of homeland security, CBP intends to finalize several rules during the next fiscal year that are intended to improve security at our borders and ports of entry. We have highlighted some of these rules below.

Electronic System for Travel Authorization (ESTA).

On June 9, 2008, CBP published an interim final rule amending DHS regulations to implement the Electronic System for Travel Authorization (ESTA) for aliens who wish to enter the United States under the Visa Waiver Program (VWP) at air or sea ports of entry. This rule is intended to fulfill the requirements of section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act). The rule establishes ESTA and delineates the data field DHS has determined will be collected by the system. The rule requires that each alien traveling to the United States under the VWP must obtain electronic travel authorization via the ESTA System in advance of such travel. VWP travelers may obtain the required ESTA authorization by electronically submitting to CBP biographic and other information as currently required by the I-94W Nonimmigrant Alien Arrival/Departure Form (I-94W). By **Federal Register** notice dated November 13, 2008, the Secretary of Homeland Security informed the public that ESTA would become mandatory beginning January 12, 2009. This means that all VWP travelers must either obtain travel authorization in advance of travel under ESTA or obtain a visa prior to traveling to the United States.

By shifting from a paper to an electronic form and requiring the data in advance of travel, CBP will be able to determine before the alien departs for the U.S., the eligibility of nationals from VWP countries to travel to the United States and to determine whether such travel poses a law enforcement or security risk. By modernizing the VWP, the ESTA is intended to increase national security and provide for greater efficiencies in the screening of international travelers by allowing for vetting of subjects of potential interest well before boarding, thereby reducing traveler delays based on lengthy processes at ports of entry. CBP intends to issue a final rule during the next fiscal year. On August 9, 2010, CBP published an interim final rule amending the ESTA regulations to require ESTA applicants to pay a congressionally mandated fee which is the sum of two amounts: a $10 travel promotion fee for an approved ESTA and a $4 operational fee for the use of ESTA set by the Secretary of Homeland Security to, at a minimum, ensure the recovery of the full costs of providing and administering the ESTA. CBP is working to finalize the 2008 and 2010 interim final rules during fiscal year 2011.

Importer Security Filing and Additional Carrier Requirements

The Security and Accountability for Every Port Act of 2006 (SAFE Port Act) calls for CBP to promulgate regulations to require the electronic transmission of additional data elements for improved high-risk targeting. See Public Law No. 109-347, section 203 (Oct. 13, 2006). This includes appropriate security elements of entry data for cargo destined for the United States by vessel prior to loading of such cargo on vessels at foreign seaports. The SAFE Port Act requires that the information collected reasonably improve CBP's ability to identify high-risk shipments to prevent smuggling and ensure cargo safety and security.

On November 25, 2008, CBP published an interim final rule ''Importer Security Filing and Additional Carrier Requirements,'' amending CBP regulations to require carriers and importers to provide to CBP, via a CBP-approved electronic data interchange system, information necessary to enable CBP to identify high-risk shipments to prevent smuggling and ensure cargo safety and security. This rule, which became effective on January 26, 2009, improves CBP risk assessment and targeting capabilities, facilitates the prompt release of legitimate cargo following its arrival in the United States, and assists CBP in increasing the security of the global trading system. The comment period for the interim final rule concluded on June 1, 2009. CBP is analyzing comments and conducting a structured review of certain flexibility provided in the interim final rule. CBP intends to publish a final rule during fiscal year 2011.

Implementation of the Guam-CNMI Visa Waiver Program

CBP published an interim final rule in November 2008 amending the DHS regulations to replace the current Guam Visa Waiver Program with a new Guam-CNMI Visa Waiver program. This rule implements portions of the Consolidated National Resources Act of 2008 (CNRA), which extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and, among others things, provides for a visa waiver program for travel to Guam and the CNMI. The amended regulations set forth the requirements for nonimmigrant visitors who seek admission for business or pleasure and solely for entry into and stay on Guam or the CNMI without a visa. The rule also establishes six ports of entry in the CNMI for purposes of administering and enforcing the Guam-CNMI Visa Waiver program. CBP intends to issue a final rule during fiscal year 2011.

Global Entry Program

Pursuant to section 7208(k) of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended, CBP issued a notice of proposed rulemaking (NPRM) in the fall of 2009, proposing to establish an international trusted traveler program called Global Entry. This voluntary program would allow CBP to expedite clearance of pre-approved, low-risk air travelers into the United States. CBP has been operating the Global Entry program as a pilot at several airports since June 6, 2008. Based on the successful operation of the pilot, CBP proposed to establish Global Entry as a permanent voluntary regulatory program. CBP will evaluate the public comments received in response to the NPRM, in order to develop a final rule. CBP intends to issue a final rule during fiscal year 2011.

The rules discussed above foster DHS' mission. Under section 403(1) of the Homeland Security Act of 2002, the former-U.S. Customs Service, including

functions of the Secretary of the Treasury relating thereto, transferred to the Secretary of Homeland Security. As part of the initial organization of DHS, the Customs Service inspection and trade functions were combined with the immigration and agricultural inspection functions of the Border Patrol and transferred into CBP. It is noted that certain regulatory authority of the United States Customs Service relating to customs revenue function was retained by the Department of the Treasury (see the Department of the Treasury Regulatory Plan). In addition to its plans to continue issuing regulations to enhance border security, CBP, during fiscal year 2011, expects to continue to issue regulatory documents that will facilitate legitimate trade and implement trade benefit program. CBP regulations regarding the customs revenue function are discussed in the regulatory plan of the Department of the Treasury.

Federal Emergency Management Agency

The mission of the Federal Emergency Management Agency (FEMA) is to support our citizens and first responders to ensure that, as a Nation, we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from, and mitigate all hazards. In fiscal year 2011, FEMA will continue to serve that mission and promote the Department of Homeland Security's goals. In furtherance of the Department and Agency's goals, in the upcoming fiscal year, FEMA will be working on regulations to implement provisions of the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA) (Pub. L. 109-295, Oct. 4, 2006), and to implement lessons learned from past events.

Public Assistance Program regulations

FEMA will work to revise the Public Assistance Program regulations in 44 CFR part 206 to reflect changes made to the Robert T. Stafford Disaster Relief and Emergency Assistance Act by PKEMRA, the Pets Evacuation and Transportation Standards Act of 2006 (PETS Act) (Pub. L. No. 109-308, Oct. 6, 2006), the Local Community Recovery Act of 2006 (Pub. L. No. 109-218, Apr. 20, 2006), and the Security and Accountability for Every Port Act of 2006 (SAFE Port Act) (Pub. L. No. 109-347, Oct. 13, 2006), and to make other substantive and nonsubstantive clarifications and corrections to the Public Assistance regulations. The proposed changes would expand eligibility to include performing arts facilities and community arts centers pursuant to section 688 of PKEMRA; include education in the list of critical services pursuant to section 689(h) of PKEMRA, thus allowing private nonprofit educational facilities to be eligible for restoration funding; add accelerated Federal assistance to available assistance pursuant to section 681 of PKEMRA; include household pets and service animals in essential assistance pursuant to section 689 of PKEMRA and section 4 of the PETS Act; provide for expedited payments of grant assistance for the removal of debris pursuant to section 610 of the SAFE Port Act; and allow for a contract to be set aside for award based on a specific geographic area pursuant to section 2 of the Local Community Recovery Act of 2006. Other changes would include adding or changing requirements to improve and streamline the Public Assistance grant application process.

Federal Law Enforcement Training Center

The Federal Law Enforcement Training Center (FLETC) does not have any significant regulatory actions planned for fiscal year 2011.

United States Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement (ICE) is the principal criminal investigative arm of the Department of Homeland Security and one of the three Department components charged with the civil enforcement of the Nation's immigration laws. ICE's primary mission is to protect national security, public safety, and the integrity of our borders through the criminal and civil enforcement of Federal law governing border control, customs, trade, and immigration.

During fiscal year 2011, ICE will pursue rulemaking actions that improve two critical subject areas: The detention of aliens who are subject to final orders of removal and the processes for the Student and Exchange Visitor Program (SEVP).

Continued Detention of Aliens Subject to Final Orders of Removal

ICE will improve the post order custody review process in a final rule related to the continued detention of aliens subject to final orders of removal in light of the U.S. Supreme Court's decisions in *Zadvydas v. Davis*, 533 U.S. 678 (2001) and *Clark v. Martinez*, 543 U.S. 371 (2005), as well as make changes pursuant to the enactment of the Homeland Security Act of 2002. During fiscal year 2011, ICE will also issue a companion notice of proposed rulemaking that will allow the public an opportunity to comment on new sections of the custody determination process not previously published for comment.

Processes for the Student and Exchange Visitor Program

ICE will improve SEVP processes by publishing a final Optional Practical Training (OPT) rule, which will respond to comments on the OPT Interim Final Rule (IFR) published on June 9, 2008. The IFR increased the maximum period of OPT from 12 months to 29 months for nonimmigrant students who have completed a science, technology, engineering, or mathematics degree and who accept employment with employers who participate in USCIS' E-Verify employment verification program.

National Protection and Programs Directorate

The goal of the National Protection and Programs Directorate (NPPD) is to advance the Department's risk-reduction mission. Reducing risk requires an integrated approach that encompasses both physical and virtual threats and their associated human elements.

Secure Handling of Ammonium Nitrate Program

The Secure Handling of Ammonium Nitrate Act, section 563 of the Fiscal Year 2008 Department of Homeland Security Appropriations Act, Public Law No. 110-161, amended the Homeland Security Act of 2002 to provide DHS with the authority to ''regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility . . . to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.''

The Secure Handling of Ammonium Nitrate Act directs DHS to promulgate regulations requiring potential buyers and sellers of ammonium nitrate to register with DHS. As part of the registration process, the statute directs DHS to screen registration applicants against the Federal Government's Terrorist Screening Database. The statute also requires sellers of ammonium nitrate to verify the identities of those seeking to purchase it; to record certain information about each sale or transfer of ammonium nitrate; and to report thefts and losses of ammonium nitrate to DHS.

The rule would aid the Federal Government in its efforts to prevent the

misappropriation of ammonium nitrate for use in acts of terrorism. By preventing such misappropriation, this rule will limit terrorists' abilities to threaten the public and to threaten the Nation's critical infrastructure and key resources. By securing the Nation's supply of ammonium nitrate, it will be more difficult for terrorists to obtain ammonium nitrate materials for use in terrorist acts.

DHS published an advance notice of proposed rulemaking (ANPRM) for the Secure Handling of Ammonium Nitrate Program on October 29, 2008, and has received a number of public comments on that ANPRM. DHS is presently reviewing those comments and is in the process of developing a notice of proposed rulemaking, which the Department hopes to issue during fiscal year 2011.

Collection of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Departure; United States Visitor and Immigrant Status Indicator Technology Program

The U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) is an integrated, automated entry-exit system that records the arrival and departure of aliens, verifies aliens' identities, and verifies aliens' travel documents by comparison of biometric identifiers. The goals of US-VISIT are to enhance the security of U.S. citizens and visitors to the United States, facilitate legitimate travel and trade, ensure the integrity of the U.S. immigration system, and protect the privacy of visitors to the United States.

The US-VISIT program, through CBP officers or Department of State (DOS) consular offices, collects biometrics (digital fingerprints and photographs) from aliens seeking to enter the United States. DHS checks that information against government databases to identify suspected terrorists, known criminals, or individuals who have previously violated U.S. immigration laws. This system assists DHS and DOS in determining whether an alien seeking to enter the United States is, in fact, admissible to the United States under existing law. No biometric exit system currently exists, however, to assist DHS or DOS in determining whether an alien has overstayed the terms of his or her visa or other authorization to be present in the United States.

NPPD published a notice of proposed rulemaking on April 24, 2008, proposing to establish an exit program at all air and sea ports of departure in the United States. Congress subsequently enacted the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act of 2009, Public Law No.110-329 (Sep. 30, 2008), requiring DHS to delay issuance of a final rule until the conclusion of pilot tests to analyze the collection of biometrics from at least two air exit scenarios. DHS currently is reviewing the results of those tests. DHS continues to work to ensure that the final air/sea exit rule will be issued as soon as practicable.

Transportation Security Administration

The Transportation Security Administration (TSA) protects the Nation's transportation systems to ensure freedom of movement for people and commerce. TSA is committed to continuously setting the standard for excellence in transportation security through its people, processes, and technology as we work to meet the immediate and long-term needs of the transportation sector.

In fiscal year 2011, TSA will promote the DHS mission by emphasizing regulatory efforts that allow TSA to better identify, detect, and protect against threats against various modes of the transportation system, while facilitating the efficient movement of the traveling public, transportation workers, and cargo.

Screening of Air Cargo

TSA will finalize an interim final rule that codifies a statutory requirement of the Implementing Recommendations of the 9/11 Commission Act of 2008 (9/11 Act), Public Law 110-53 (Aug. 3, 2007) that TSA establish a system to screen 100 percent of cargo transported on passenger aircraft by August 3, 2010. To assist in carrying out this mandate, TSA has established a voluntary program under which it certifies cargo screening facilities to screen cargo according to TSA standards prior to its being tendered to aircraft operators for carriage on passenger aircraft.

Large Aircraft Security Program (General Aviation)

TSA plans to issue a supplemental notice of proposed rulemaking (SNPRM) to propose amendments to current aviation transportation security regulations to enhance the security of general aviation (GA) by expanding the scope of current requirements and by adding new requirements for certain GA aircraft operators. To date, the Government's focus with regard to aviation security generally has been on air carriers and commercial operators. As vulnerabilities and risks associated with air carriers and commercial operators have been reduced or mitigated, terrorists may perceive that GA aircraft are more vulnerable and may view them as attractive targets. This rule would enhance aviation security of certain GA aircraft to undertake other security measures. TSA published a notice of proposed rulemaking on October 30, 2008, and received over 7,000 public comments, generally urging significant changes to the proposal. The SNPRM will respond to the comments and contain proposals on addressing security in the GA sector.

Security Training for Surface Mode Employees

TSA will propose regulations to enhance the security of several non-aviation modes of transportation. In particular, TSA will propose regulations requiring freight railroad carriers, public transportation agencies (including rail mass transit and bus systems), passenger railroad carriers, over-the-road bus operators, and motor carriers transporting certain hazardous materials to conduct security training for front line employees. This regulation would implement sections 1408 (Public Transportation), 1517 (Freight Railroads), and 1534(a) (Over the Road (OTR) Buses) of the 9/11 Act. The NPRM will define which employees must be trained under these provisions, in compliance with the definitions of frontline employees in the pertinent provisions of the 9/11 Act. Some parts of the proposed rule would extend beyond the requirements of the 9/11 Act; those portions are authorized by the Aviation and Transportation Security Act.

Aircraft Repair Station Security.

TSA will finalize a rule requiring repair stations that are certificated by the Federal Aviation Administration under 14 CFR part 145 to adopt and implement standard security programs and to comply with security directives issued by TSA. TSA issued a notice of proposed rulemaking on November 18, 2009. The final rule will also codify the scope of TSA's existing inspection program and require regulated parties to allow DHS officials to enter, inspect, and test property, facilities, and records relevant to repair stations. This rulemaking action implements section 1616 of the 9/11 Act.

Standardized Vetting, Adjudication, and Redress Process and Fees

TSA is developing a proposed rule to revise and standardize the procedures, adjudication criteria, and fees for most

of the security threat assessments (STA) of individuals that TSA conducts. The scope of the rulemaking will include transportation workers from almost all modes of transportation who are required to undergo an STA by a regulatory program and new programs, including those covered under the 9/11 Act. In addition, TSA will propose equitable fees to cover the cost of the STAs and credentials for some personnel. TSA plans to identify new efficiencies in processing STAs and ways to streamline existing regulations by simplifying language and removing redundancies.

United States Secret Service

The United States Secret Service does not have any significant regulatory actions planned for fiscal year 2011.

DHS Regulatory Plan for Fiscal Year 2011

A more detailed description of the priority regulations that comprise DHS' fall 2010 regulatory plan follows.

DHS—Office of the Secretary (OS)

PROPOSED RULE STAGE

61. SECURE HANDLING OF AMMONIUM NITRATE PROGRAM

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

sec 563 of the 2008 Consolidated Appropriations Act, subtitle J—Secure Handling of Ammonium Nitrate, PL 110–161

CFR Citation:

6 CFR 31

Legal Deadline:

NPRM, Statutory, May 26, 2008, Publication of Notice of Proposed Rulemaking.

Abstract:

This rulemaking will implement the December 2007 amendment to the Homeland Security Act entitled ''Secure Handling of Ammonium Nitrate.'' The amendment requires the Department of Homeland Security to ''regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility. . .to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.''

Statement of Need:

Pursuant to section 563 of the 2008 Consolidated Appropriations Act, the Secure Handling of Ammonium Nitrate Act, Public Law 110-161, the Department of Homeland Security is required to promulgate a rulemaking to create a registration regime for certain buyers and sellers of ammonium nitrate. The rule, as proposed by this NPRM, would create that regime, and will aid the Federal Government in its efforts to prevent the misappropriation of ammonium nitrate for use in acts of terrorism. By preventing such misappropriation, this rule would limit terrorists' abilities to threaten the public and to threaten the Nation's critical infrastructure and key resources. By securing the Nation's supply of ammonium nitrate, it would be much more difficult for terrorists to obtain ammonium nitrate materials for use in improvised explosive devices. As a result, there is a direct value in the deterrence of a catastrophic terrorist attack using ammonium nitrate, such as the Oklahoma City attack that killed over 160, injured 853 people, and is estimated to have caused $652 million in damages ($921 million in 2009).

Summary of Legal Basis:

Section 563 of the 2008 Consolidated Appropriations Act, subtitle J— Secure Handling of Ammonium Nitrate, Public Law 110-161, authorizes and requires this rulemaking.

Alternatives:

The Department of Homeland Security is required by statute to publish regulations implementing the Secure Handling of Ammonium Nitrate Act. As part of its notice of proposed rulemaking, the Department will seek public comment on the numerous alternative ways in which the final Secure Handling of Ammonium Nitrate Program could carry out the requirements of the Secure Handling of Ammonium Nitrate Act.

Anticipated Cost and Benefits:

A proposed rule registering certain buyers and sellers of ammonium nitrate would have costs to ammonium nitrate (AN) purchasers, including farms, fertilizer mixers, farm supply wholesalers and coops, golf courses, landscaping services, explosives distributors, mines, retail garden centers, and lab supply wholesalers. There would also be costs to AN sellers, such as ammonium nitrate fertilizer and explosive manufacturers, fertilizer mixers, farm supply wholesalers and coops, retail garden center, explosives distributors, fertilizer applicator services, and lab supply wholesalers. Costs will relate to the point of sale requirements, registration activities, recordkeeping, inspections/audits, and reporting of theft or loss.

Because the value of the benefits of reducing risk of a terrorist attack is a function of both the probability of an attack and the value of the consequence, it is difficult to identify the particular risk reduction associated with the implementation of this rule. When the proposed rule is published, DHS will provide a break even analysis. The program elements that would help achieve the risk reductions will be discussed in the break even analysis. These elements and related qualitative benefits include point of sale identification requirements and requiring individuals to be screened against the TSDB resulting in known bad actors being denied the ability to purchase ammonium nitrate.

Risks:

Explosives containing ammonium nitrate are commonly used in terrorist attacks. Such attacks have been carried out both domestically and internationally. The 1995 Murrah Federal Building attack in Oklahoma City claimed the lives of 167 individuals and demonstrated firsthand to America how ammonium nitrate could be misused by terrorists. In addition to the Murrah Building attack, the Provisional Irish Republican Army used ammonium nitrate as part of its London, England bombing campaign in the early 1980s. More recently, ammonium nitrate was used in the 1998 East African Embassy bombings and in November 2003 bombings in Istanbul, Turkey. Additionally, since the events of 9/11, stores of ammonium nitrate have been confiscated during raids on terrorist sites around the world, including sites in Canada, England, India, and the Philippines.

The Department of Homeland Security aims to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to terrorism. By preventing the misappropriation or use of ammonium nitrate in acts of terrorism, this rulemaking will support the Department's efforts to prevent terrorist attacks and to reduce the Nation's vulnerability to terrorist attacks. This rulemaking is complementary to other Department programs seeking to reduce the risks posed by terrorism, including the Chemical Facility Anti-Terrorism

Standards program (which seeks in part to prevent terrorists from gaining access to dangerous chemicals) and the Transportation Worker Identification Credential program (which seeks in part to prevent terrorists from gaining access to certain critical infrastructure), among other programs.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/08	73 FR 64280
Correction	11/05/08	73 FR 65783
ANPRM Comment Period End	12/29/08	
NPRM	03/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

Federalism:

This action may have federalism implications as defined in EO 13132.

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 1601–AA52

DHS—OS

FINAL RULE STAGE

62. COLLECTION OF ALIEN BIOMETRIC DATA UPON EXIT FROM THE UNITED STATES AT AIR AND SEA PORTS OF DEPARTURE; UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY PROGRAM (US–VISIT)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

8 USC 1101 to 1104; 8 USC 1182; 8 USC 1184 to 1185 (pursuant to EO 13323); 8 USC 1221; 8 USC 1365a, 1365b; 8 USC 1379; 8 USC 1731 to 1732

CFR Citation:

8 CFR 215.1; 8 CFR 215.8

Legal Deadline:

None

Abstract:

DHS established the United States Visitor and Immigrant Status Indicator Technology Program (US-VISIT) in accordance with a series of legislative mandates requiring that DHS create an integrated automated entry-exit system that records the arrival and departure of aliens; verifies aliens' identities; and authenticates travel documents. This rule requires aliens to provide biometric identifiers at entry and upon departure at any air and sea port of entry at which facilities exist to collect such information.

Statement of Need:

This rule establishes an exit system at all air and sea ports of departure in the United States. This rule requires aliens subject to United States Visitor and Immigrant Status Indicator Technology Program biometric requirements upon entering the United States to also provide biometric identifiers prior to departing the United States from air or sea ports of departure.

Alternatives:

The proposed rule would require aliens who are subject to US-VISIT biometric requirements upon entering the United States to provide biometric information before departing from the United States at air and sea ports of entry. The rule proposed a performance standard for commercial air and vessel carriers to collect the biometric information and to submit this information to DHS no later than 24 hours after air carrier staff secure the aircraft doors on an international departure, or for sea travel, no later than 24 hours after the vessel's departure from a U.S. port. DHS is considering numerous alternatives based upon public comment on the alternatives in the NPRM. Alternatives included various points in the process, kiosks, and varying levels of responsibility for the carriers and government. DHS may select another variation between the outer bounds of the alternatives presented or another alternative if subsequent analysis warrants.

Anticipated Cost and Benefits:

The proposed rule expenditure and delay costs for a 10-year period are estimated at $3.5 billion. Alternative costs range from $3.1 billion to $6.4 billion. US-VISIT assessed seven categories of economic impacts other than direct expenditures. Of these, two are economic costs: Social costs resulting from increased traveler queue and processing time; and social costs resulting from increased flight delays. Ten-year benefits are estimated at $1.1 billion. US-VISIT assessed seven categories of economic impacts other than direct expenditures. Of these, five are benefits, which include costs that could be avoided for each alternative: Cost avoidance resulting from improved detection of aliens overstaying visas; cost avoidance resulting from improved U.S. Immigrations and Customs Enforcement (ICE) efficiency attempting apprehension of overstays; cost avoidance resulting from improved efficiency processing exit/entry data; improved compliance with NSEERS requirements due to the improvement in ease of compliance; and improved national security environment. These benefits are measured quantitatively or qualitatively.

Timetable:

Action	Date	FR Cite
NPRM	04/24/08	73 FR 22065
NPRM Comment Period End	06/23/08	
Final Rule	04/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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Related RIN: Previously reported as 1650–AA04

RIN: 1601–AA34

DHS—U.S. Citizenship and Immigration Services (USCIS)

PROPOSED RULE STAGE

63. ASYLUM AND WITHHOLDING DEFINITIONS

Priority:

Other Significant

Legal Authority:

8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1282; 8 CFR 2

CFR Citation:

8 CFR 208

Legal Deadline:

None

Abstract:

This rule proposes to amend Department of Homeland Security regulations that govern asylum eligibility. The amendments focus on portions of the regulations that deal with the definitions of membership in a particular social group, the requirements for failure of State protection, and determinations about whether persecution is inflicted on account of a protected ground. This rule codifies long-standing concepts of the definitions. It clarifies that gender can be a basis for membership in a particular social group. It also clarifies that a person who has suffered or fears domestic violence may under certain circumstances be eligible for asylum on that basis. After the Board of Immigration Appeals published a decision on this issue in 1999, Matter of R-A-, Int. Dec. 3403 (BIA 1999), it became clear that the governing regulatory standards required clarification. The Department of Justice began this regulatory initiative by publishing a proposed rule addressing these issues in 2000.

Statement of Need:

This rule provides guidance on a number of key interpretive issues of the refugee definition used by adjudicators deciding asylum and withholding of removal (withholding) claims. The interpretive issues include whether persecution is inflicted on account of a protected ground, the requirements for establishing the failure of State protection, and the parameters for defining membership in a particular social group. This rule will aid in the adjudication of claims made by applicants whose claims fall outside of the rubric of the protected grounds of race, religion, nationality, or political opinion. One example of such claims which often fall within the particular social group ground concerns people who have suffered or fear domestic violence. This rule is expected to consolidate issues raised in a proposed rule in 2000, and to address issues that have developed since the publication of the proposed rule. This should provide greater stability and clarity in this important area of the law.

Summary of Legal Basis:

The purpose of this rule is to provide guidance on certain issues that have arisen in the context of asylum and withholding adjudications. The 1951 Geneva Convention relating to the Status of Refugees (1951 Convention) contains the internationally accepted definition of a refugee. United States immigration law incorporates an almost identical definition of a refugee as a person outside his or her country of origin ''who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.'' Section 101(a)(42) of the Immigration and Nationality Act.

Alternatives:

A sizable body of interpretive case law has developed around the meaning of the refugee definition. Historically, much of this case law has addressed more traditional asylum and withholding claims based on the protected grounds of race, religion, nationality, or political opinion. In recent years, however, the United States increasingly has encountered asylum and withholding applications with more varied bases, related, for example, to an applicant's gender or sexual orientation. Many of these new types of claims are based on the ground of ''membership in a particular social group,'' which is the least well-defined of the five protected grounds within the refugee definition.

On December 7, 2000, a proposed rule was published in the Federal Register providing guidance on the definitions of ''persecution'' and ''membership in a particular social group.'' Prior to publishing a final rule, the Department will be considering how the nexus between persecution and a protected ground might be further conceptualized; how membership in a particular social group might be defined and evaluated; and what constitutes a State's inability or unwillingness to protect the applicant where the persecution arises from a non-State actor. This rule will provide guidance to the following adjudicators: USCIS asylum officers, Department of Justice Executive Office for Immigration Review (EOIR) immigration judges, and members of the EOIR Board of Immigration Appeals. The alternative to publishing this rule would be to allow the standards governing this area of law to continue to develop piecemeal through administrative and judicial precedent. This approach has resulted in inconsistent and confusing standards, and the Department has therefore determined that promulgation of the final rule is necessary.

Anticipated Cost and Benefits:

By providing a clear framework for key asylum and withholding issues, we anticipate that adjudicators will have clear guidance, increasing administrative efficiency, and consistency in adjudicating these cases. The rule will also promote a more consistent and predictable body of administrative and judicial precedent governing these types of cases. We anticipate that this will enable applicants to better assess their potential eligibility for asylum, and to present their claims more efficiently when they believe that they may qualify, thus reducing the resources spent on adjudicating claims that do not qualify. In addition, a more consistent and predictable body of law on these issues will likely result in fewer appeals, both administrative and judicial, and reduce the associated litigation costs. The Department has no way of accurately predicting how this rule will impact the number of asylum applications filed in the United States. Based on anecdotal evidence and on the reported experience of other nations that have adopted standards under which the results are similar to those we anticipate from this rule, we do not

believe this rule will cause a large change in the number of asylum applications filed.

Risks:

The failure to promulgate a final rule in this area presents significant risks of further inconsistency and confusion in the law. The Government's interests in fair, efficient and consistent adjudications would be compromised.

Timetable:

Action	Date	FR Cite
NPRM	12/07/00	65 FR 76588
NPRM Comment Period End	01/22/01	
NPRM	03/00/11	
NPRM Comment Period End	05/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

CIS No. 2092-00

Transferred from RIN 1115-AF92

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RIN: 1615–AA41

DHS—USCIS

64. REGISTRATION REQUIREMENT FOR PETITIONERS SEEKING TO FILE H–1B PETITIONS ON BEHALF OF ALIENS SUBJECT TO NUMERICAL LIMITATIONS

Priority:

Other Significant

Legal Authority:

8 USC 1184(g)

CFR Citation:

8 CFR 103; 8 CFR 299

Legal Deadline:

None

Abstract:

The Department of Homeland Security is proposing to amend its regulations governing petitions filed on behalf of alien workers subject to annual numerical limitations. This rule proposes an electronic registration program for petitions subject to numerical limitations contained in the Immigration and Nationality Act (the Act). Initially, the program would be for the H-1B nonimmigrant classification; however, other nonimmigrant classifications will be added as needed. This action is necessary because the demand for H-1B specialty occupation workers by U.S. companies generally exceeds the numerical limitation. This rule is intended to allow USCIS to more efficiently manage the intake and lottery process for these H-1B petitions.

Statement of Need:

U.S. Citizenship and Immigration Services (USCIS) proposes to establish a mandatory Internet-based electronic registration process for U.S. employers seeking to file H-1B petitions for alien workers subject to either the 65,000 or 20,000 caps. This registration process would allow U.S. employers to electronically register for consideration of available H-1B cap numbers. The mandatory proposed registration process will alleviate administrative burdens on USCIS service centers and eliminate the need for U.S. employers to needlessly prepare and file H-1B petitions without any certainty that an H-1B cap number will ultimately be allocated to the beneficiary named on that petition.

Summary of Legal Basis:

Section 214(g) of the Immigration and Nationality Act provides limits on the number of alien temporary workers who may be granted H-1B nonimmigrant status each fiscal year (commonly known as the ''cap''). USCIS has responsibility for monitoring the requests for H-1B workers and administers the distribution of available H-1B cap numbers in light of these limits.

Alternatives:

To ensure a fair and orderly distribution of H-1B cap numbers, USCIS evaluated its current random selection process, and has found that when it receives a significant number of H-1B petitions within the first few days of the H-1B filing period, it is extremely difficult to handle the volume of petitions received in advance of the H-1B random selection process. Further, the current petition process of preparing and mailing H-1B petitions, with the required filing fee, can be burdensome and costly for employers, if the petition is returned because the cap was reached and the petition was not selected in the random selection process.

Accordingly, this rule proposes to implement a new process to allow U.S. employers to electronically register for consideration of available H-1B cap numbers without having to first prepare and submit the petition.

Anticipated Cost and Benefits:

USCIS estimates that this rule will result in a net benefit to society. Currently, employers submit a petition, at great expense, without any certainty that an H-1B cap number will ultimately be allocated to the beneficiary named on the petition. The new mandatory, Internet-based registration system allows employers to complete a much shorter and less expensive registration process for consideration of available H-1B cap numbers. The new system will also relieve a significant administrative burden and expense from USCIS.

This rule will reduce costs for some employers and increase them for others. For employers that are not allocated a cap number and therefore do not ultimately file a petition, there will be a significant cost savings. Employers that are allocated a cap number and ultimately file a petition will experience the new and additional cost of filing the registration. Additionally, USCIS will incur additional costs to implement and maintain the registration system. USCIS has weighed the benefits and costs associated with this rule and determined that the benefits to society outweigh the costs.

Risks:

There is a risk that a petitioner will submit multiple petitions for the same H-1B beneficiary so that the U.S. employer will have a better chance of his or her petition being selected. Accordingly, should USCIS receive multiple petitions for the same H-1B beneficiary by the same petitioner, the system will only accept the first petition and reject the duplicate petitions.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	
NPRM Comment Period End	03/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

USCIS 2443-08

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RIN: 1615–AB71

DHS—USCIS

65. ● EXCEPTION TO THE PERSECUTION BAR FOR ASYLUM, REFUGEE, AND TEMPORARY PROTECTED STATUS, AND WITHHOLDING OF REMOVAL

Priority:

Other Significant

Legal Authority:

8 USC 1101; 8 USC 1103; 8 USC 1158; 8 USC 1226; PL 107–26; PL 110–229; . . .

CFR Citation:

8 CFR 1; 8 CFR 208; 8 CFR 244; 8 CFR 1244; . . .

Legal Deadline:

None

Abstract:

This joint rule proposes amendments to Department of Homeland Security (DHS) and Department of Justice (DOJ) regulations to describe the circumstances under which an applicant will continue to be eligible for asylum, refugee, or temporary protected status, special rule cancellation of removal under the Nicaraguan Adjustment and Central American Relief Act, and withholding of removal, even if DHS or DOJ has determined that the applicant's actions contributed, in some way, to the persecution of others. The purpose of this rule is to resolve ambiguity in the statutory language precluding eligibility for asylum, refugee, and temporary protected status of an applicant who ordered, incited, assisted, or otherwise participated in the persecution of others. The proposed amendment would provide a limited exception for actions taken by the applicant under duress and clarify the required levels of the applicant's knowledge of the persecution.

Statement of Need:

This rule resolves ambiguity in the statutory language precluding eligibility for asylum, refugee, and temporary protected status of an applicant who ordered, incited, assisted, or otherwise participated in the persecution of others. The proposed amendment would provide a limited exception for actions taken by the applicant under duress and clarify the required levels of the applicant's knowledge of the persecution.

Summary of Legal Basis:

In Negusie v. Holder, 129 S. Ct. 1159 (2009), the Supreme Court addressed whether the persecutor bar should apply where an alien's actions were taken under duress. DHS believe that this is an appropriate subject for rulemaking and propose to amend the applicable regulations to set out their interpretation of the statute. In developing this regulatory initiative, DHS has carefully considered the purpose and history behind enactment of the persecutor bar, including its international law origins and the criminal law concepts upon which they are based.

Alternatives:

DHS did consider the alternative of not publishing a rulemaking on these issues. To leave this important area of the law without an administrative interpretation, however, would confuse adjudicators and the public.

Anticipated Cost and Benefits:

The programs affected by this rule exist so that the United States may respond effectively to global humanitarian situations and assist people who are in need. USCIS provides a number of humanitarian programs and protection to assist individuals in need of shelter or aid from disasters, oppression, emergency medical issues, and other urgent circumstances. This rule will advance the humanitarian goals of the asylum/refugee program, and other specialized programs. The main benefits of such tend to be intangible and difficult to quantify in economic and monetary terms. These forms of relief have not been available to certain persecutors. This rule will allow an exception to this bar from protection for applicants who can meet the appropriate evidentiary standard. Consequently, this rule may result in a small increase in the number of applicants for humanitarian programs. To the extent a small increase in applicants occurs, there could be additional fee costs incurred by these applicants.

Risks:

If DHS were not to publish a regulation, the public would face a lengthy period of confusion on these issues. There could also be inconsistent interpretations of the statutory language, leading to significant litigation and delay for the affected public.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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RIN: 1615–AB89

DHS—USCIS

FINAL RULE STAGE

66. NEW CLASSIFICATION FOR VICTIMS OF SEVERE FORMS OF TRAFFICKING IN PERSONS; ELIGIBILITY FOR T NONIMMIGRANT STATUS

Priority:

Other Significant

Legal Authority:

5 USC 552; 5 USC 552a; 8 USC 1101 to 1104; 8 USC 1182; 8 USC 1184; 8

USC 1187; 8 USC 1201; 8 USC 1224 to 1227; 8 USC 1252 to 1252a; 22 USC 7101; 22 USC 7105; . . .

CFR Citation:

8 CFR 103; 8 CFR 212; 8 CFR 214; 8 CFR 274a; 8 CFR 299

Legal Deadline:

None

Abstract:

T classification was created by 107(e) of the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Public Law 106-386. The T nonimmigrant classification was designed for eligible victims of severe forms of trafficking in persons who aid law enforcement with their investigation or prosecution of the traffickers, and who can establish that they would suffer extreme hardship involving unusual and severe harm if they were removed from the United States. The rule establishes application procedures and responsibilities for the Department of Homeland Security and provides guidance to the public on how to meet certain requirements to obtain T nonimmigrant status. The Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110-457, made amendments to the T nonimmigrant status provisions of the Immigration and Naturalization Act. The Department will issue another interim final rule to make the changes required by recent legislation and to provide the opportunity for notice and comment.

Statement of Need:

T nonimmigrant status is available to eligible victims of severe forms of trafficking in persons who have complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking in persons, and who can demonstrate that they would suffer extreme hardship involving unusual and severe harm if removed from the United States. This rule addresses the essential elements that must be demonstrated for classification as a T nonimmigrant alien; the procedures to be followed by applicants to apply for T nonimmigrant status; and evidentiary guidance to assist in the application process.

Summary of Legal Basis:

Section 107(e) of the Trafficking Victims Protection Act (TVPA), Public Law 106-386, as amended, established the T classification to create a safe haven for certain eligible victims of severe forms of trafficking in persons, who assist law enforcement authorities in investigating and prosecuting the perpetrators of these crimes.

Alternatives:

To develop a comprehensive Federal approach to identifying victims of severe forms of trafficking in persons, to provide them with benefits and services, and to enhance the Department of Justice's ability to prosecute traffickers and prevent trafficking in persons in the first place, a series of meetings with stakeholders were conducted with representatives from key Federal agencies; national, State, and local law enforcement associations; non-profit, community-based victim rights organizations; and other groups. Suggestions from these stakeholders were used in the drafting of this regulation.

Anticipated Cost and Benefits:

There is no cost to applicants associated with this regulation. Applicants for T nonimmigrant status do not pay application or biometric fees.

The anticipated benefits of these expenditures include: Assistance to trafficked victims and their families, prosecution of traffickers in persons, and the elimination of abuses caused by trafficking activities.

Benefits which may be attributed to the implementation of this rule are expected to be:

1. An increase in the number of cases brought forward for investigation and/or prosecution;

2. Heightened awareness by the law enforcement community of trafficking in persons;

3. Enhanced ability to develop and work cases in trafficking in persons cross-organizationally and multi-jurisdictionally, which may begin to influence changes in trafficking patterns.

Risks:

There is a 5,000-person limit to the number of individuals who can be granted T-1 status per fiscal year. Eligible applicants who are not granted T-1 status due solely to the numerical limit will be placed on a waiting list to be maintained by U.S. Citizenship and Immigration Services (USCIS).

To protect T-1 applicants and their families, USCIS will use various means to prevent the removal of T-1 applicants on the waiting list, and their family members who are eligible for derivative T status, including its existing authority to grant deferred action, parole, and stays of removal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/02	67 FR 4784
Interim Final Rule Effective	03/04/02	
Interim Final Rule Comment Period End	04/01/02	
Interim Final Rule	09/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

Federal, Local, State

Additional Information:

CIS No. 2132-01; AG Order No. 2554-2002

There is a related rulemaking, CIS No. 2170-01, the new U nonimmigrant status (RIN 1615-AA67).

Transferred from RIN 1115-AG19

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RIN: 1615–AA59

DHS—USCIS

67. ADJUSTMENT OF STATUS TO LAWFUL PERMANENT RESIDENT FOR ALIENS IN T AND U NONIMMIGRANT STATUS

Priority:

Other Significant

Legal Authority:

5 USC 552; 5 USC 552a; 8 USC 1101 to 1104; 8 USC 1182; 8 USC 1184; 8 USC 1187; 8 USC 1201; 8 USC 1224 to 1227; 8 USC 1252 to 1252a; 8 USC 1255; 22 USC 7101; 22 USC 7105

CFR Citation:

8 CFR 204; 8 CFR 214; 8 CFR 245

Legal Deadline:

None

Abstract:

This rule sets forth measures by which certain victims of severe forms of trafficking who have been granted T nonimmigrant status and victims of certain criminal activity who have been granted U nonimmigrant status may apply for adjustment to permanent resident status in accordance with Public Law 106-386, Victims of Trafficking and Violence Protection Act of 2000; and Public Law 109-162, Violence Against Women and Department of Justice Reauthorization Act of 2005. The Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110-457, made amendments to the T nonimmigrant status provisions of the Immigration and Naturalization Act. The Department will issue another interim final rule to make the changes required by recent legislation and to provide the opportunity for notice and comment.

Statement of Need:

This regulation is necessary to permit aliens in lawful T or U nonimmigrant status to apply for adjustment of status to that of lawful permanent residents. T nonimmigrant status is available to aliens who are victims of a severe form of trafficking in persons and who are assisting law enforcement in the investigation or prosecution of the acts of trafficking. U nonimmigrant status is available to aliens who are victims of certain crimes and are being helpful to the investigation or prosecution of those crimes.

Summary of Legal Basis:

This rule implements the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Public Law 106-386, 114 Stat. 1464 (Oct. 28, 2000), as amended, to permit aliens in lawful T or U nonimmigrant status to apply for adjustment of status to that of lawful permanent residents.

Alternatives:

USCIS did not consider alternatives to managing T and U applications for adjustment of status. Ease of administration dictates that adjustment of status applications from T and U nonimmigrants would be best handled on a first in, first out basis, because that is the way applications for T and U status are currently handled.

Anticipated Cost and Benefits:

USCIS uses fees to fund the cost of processing applications and associated support benefits. The fees to be collected resulting from this rule will be approximately $3 million in the first year, $1.9 million in the second year, and an average about $32 million in the third and subsequent years. To estimate the new fee collections to be generated by this rule, USCIS estimated the fees to be collected for new applications for adjustment of status from T and U nonimmigrants and their eligible family members. After that, USCIS estimated fees from associated applications that are required such as biometrics, and others that are likely to occur in direct connection with applications for adjustment, such as employment authorization or travel authorization.

The anticipated benefits of these expenditures include: Continued assistance to trafficked victims and their families, increased investigation and prosecution of traffickers in persons, and the elimination of abuses caused by trafficking activities.

Benefits that may be attributed to the implementation of this rule are expected to be:

1. An increase in the number of cases brought forward for investigation and/or prosecution;

2. Heightened awareness of trafficking-in-persons issues by the law enforcement community; and

3. Enhanced ability to develop and work cases in trafficking in persons cross-organizationally and multi-jurisdictionally, which may begin to influence changes in trafficking patterns.

Risks:

Congress created the U nonimmigrant status (''U visa'') to provide immigration protection to crime victims who assist in the investigation and prosecution of those crimes. Although there are no specific data on alien crime victims, statistics maintained by the Department of Justice have shown that aliens, especially those aliens without legal status, are often reluctant to help in the investigation or prosecution of crimes. U visas are intended to help overcome this reluctance and aid law enforcement accordingly.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/12/08	73 FR 75540
Interim Final Rule Effective	01/12/09	
Interim Final Rule Comment Period End	02/10/09	
Interim Final Rule	09/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, Local, State

Additional Information:

CIS No. 2134-01

Transferred from RIN 1115-AG21

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RIN: 1615–AA60

DHS—USCIS

68. NEW CLASSIFICATION FOR VICTIMS OF CRIMINAL ACTIVITY; ELIGIBILITY FOR THE ''U'' NONIMMIGRANT STATUS

Priority:

Other Significant

Legal Authority:

5 USC 552; 5 USC 552a; 8 USC 1101; 8 USC 1101 note; 8 USC 1102

CFR Citation:

8 CFR 103; 8 CFR 204; 8 CFR 212; 8 CFR 214; 8 CFR 299

Legal Deadline:

None

Abstract:

This rule sets forth application requirements for a new nonimmigrant status. The U classification is for non-U.S. Citizen/Lawful Permanent Resident victims of certain crimes who cooperate with an investigation or prosecution of those crimes. There is a limit of 10,000 principals per year.

This rule establishes the procedures to be followed in order to petition for the

U nonimmigrant classifications. Specifically, the rule addresses the essential elements that must be demonstrated to receive the nonimmigrant classification, procedures that must be followed to make an application, and evidentiary guidance to assist in the petitioning process. Eligible victims will be allowed to remain in the United States. The Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110-457, made amendments to the T nonimmigrant status provisions of the Immigration and Naturalization Act. The Department will issue another interim final rule to make the changes required by recent legislation and to provide the opportunity for notice and comment.

Statement of Need:

This rule provides requirements and procedures for aliens seeking U nonimmigrant status. U nonimmigrant classification is available to alien victims of certain criminal activity who assist government officials in the investigation or prosecution of that criminal activity. The purpose of the U nonimmigrant classification is to strengthen the ability of law enforcement agencies to investigate and prosecute such crimes as domestic violence, sexual assault, and trafficking in persons, while offering protection to alien crime victims in keeping with the humanitarian interests of the United States.

Summary of Legal Basis:

Congress created the U nonimmigrant classification in the Battered Immigrant Women Protection Act of 2000 (BIWPA). Congress intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes, while offering protection to victims of such crimes. Congress also sought to encourage law enforcement officials to better serve immigrant crime victims.

Alternatives:

USCIS has identified four alternatives, the first being chosen for the rule:

1. USCIS would adjudicate petitions on a first in, first out basis. Petitions received after the limit has been reached would be reviewed to determine whether or not they are approvable, but for the numerical cap. Approvable petitions that are reviewed after the numerical cap has been reached would be placed on a waiting list and written notice sent to the petitioner. Priority on the waiting list would be based upon the date on which the petition is filed. USCIS would provide petitioners on the waiting list with interim relief until the start of the next fiscal year in the form of deferred action, parole, or a stay of removal.

2. USCIS would adjudicate petitions on a first in, first out basis, establishing a waiting list for petitions that are pending or received after the numerical cap has been reached. Priority on the waiting list would be based upon the date on which the petition was filed. USCIS would not provide interim relief to petitioners whose petitions are placed on the waiting list.

3. USCIS would adjudicate petitions on a first in, first out basis. However, new filings would be reviewed to identify particularly compelling cases for adjudication. New filings would be rejected once the numerical cap is reached. No official waiting list would be established; however, interim relief until the start of the next fiscal year would be provided for some compelling cases. If a case was not particularly compelling, the filing would be denied or rejected.

4. USCIS would adjudicate petitions on a first in, first out basis. However, new filings would be rejected once the numerical cap is reached. No waiting list would be established, nor would interim relief be granted.

Anticipated Cost and Benefits:

USCIS estimates the total annual cost of this interim rule to applicants to be $6.2 million. This cost includes the biometric services fee that petitioners must pay to USCIS, the opportunity cost of time needed to submit the required forms, the opportunity cost of time required for a visit to an Application Support Center, and the cost of traveling to an Application Support Center.

This rule will strengthen the ability of law enforcement agencies to investigate and prosecute such crimes as domestic violence, sexual assault, and trafficking in persons, while offering protection to alien crime victims in keeping with the humanitarian interests of the United States.

Risks:

In the case of witness tampering, obstruction of justice, or perjury, the interpretive challenge for USCIS was to determine whom the BIWPA was meant to protect, given that these criminal activities are not targeted against a person. Accordingly it was determined that a victim of witness tampering, obstruction of justice, or perjury is an alien who has been directly and proximately harmed by the perpetrator of one of these three crimes, where there are reasonable grounds to conclude that the perpetrator principally committed the offense as a means: (1) to avoid or frustrate efforts to investigate, arrest, prosecute, or otherwise bring him or her to justice for other criminal activity; or (2) to further his or her abuse or exploitation of, or undue control over, the alien through manipulation of the legal system.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/17/07	72 FR 53013
Interim Final Rule Effective	10/17/07	
Interim Final Rule Comment Period End	11/17/07	
Interim Final Rule	09/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, Local, State

Additional Information:

Transferred from RIN 1115-AG39

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RIN: 1615–AA67

DHS—USCIS

69. E–2 NONIMMIGRANT STATUS FOR ALIENS IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS WITH LONG–TERM INVESTOR STATUS

Priority:

Other Significant

Legal Authority:

8 USC 1101 to 1103; 8 USC 1182; 8 USC 1184; 8 USC 1186a

CFR Citation:

8 CFR 214

Legal Deadline:

None

Abstract:

This final rule amends Department of Homeland Security regulations governing E-2 nonimmigrant treaty investors to establish procedures for classifying long-term investors in the Commonwealth of the Northern Mariana Islands (CNMI) as E-2 nonimmigrants. This final rule implements the CNMI nonimmigrant investor visa provisions of the Consolidated Natural Resources Act of 2008, extending the immigration laws of the United States to the CNMI.

Statement of Need:

This final rule responds to a congressional mandate that requires the Federal Government to assume responsibility for visas for entry to CNMI by foreign investors.

Anticipated Cost and Benefits:

Public Costs: This rule reduces the employer's annual cost by $200 per year ($500-$300), plus any further reduction caused by eliminating the paperwork burden associated with the CNMI's process. In 2006 to 2007, there were 464 long-term business entry permit holders and 20 perpetual foreign investor entry permit holders and retiree investor permit holders, totaling 484, or approximately 500 foreign registered investors. The total savings to employers from this rule is thus expected to be $100,000 per year ($500 x $200). Cost to the Federal Government: The yearly Federal Government cost is estimated at $42,310.

Benefits: The potential abuse of the visa system by those seeking to illegally emigrate from the CNMI to Guam or elsewhere in the United States reduces the integrity of the United States immigration system by increasing the ease by which aliens may unlawfully enter the United States through the CNMI. Federal oversight and regulations of CNMI foreign investors should help reduce abuse by foreign employees in the CNMI, and should help reduce the opportunity for aliens to use the CNMI as an entry point into the United States.

Timetable:

Action	Date	FR Cite
NPRM	09/14/09	74 FR 46938
NPRM Comment Period End	10/14/09	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Local, State

Additional Information:

CIS No. 2458-08

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RIN: 1615–AB75

DHS—USCIS

70. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS TRANSITIONAL WORKER CLASSIFICATION

Priority:

Other Significant

Legal Authority:

PL 110–229

CFR Citation:

8 CFR 214.2

Legal Deadline:

None

Abstract:

The Department of Homeland Security (DHS) is creating a new, temporary, Commonwealth of the Northern Mariana Islands (CNMI)-only transitional worker classification (CW classification) in accordance with title VII of the Consolidated Natural Resources Act of 2008 (CNRA). The transitional worker program is intended to provide for an orderly transition from the CNMI permit system to the U.S. Federal immigration system under the Immigration and Nationality Act (INA). A CW transitional worker is an alien worker who is ineligible for another classification under the INA and who performs services or labor for an employer in the CNMI. The CNRA imposes a 5-year transition period before the INA requirements become fully applicable in the CNMI. The new CW classification will be in effect for the duration of that transition period, unless extended by the Secretary of Labor. The rule also establishes employment authorization incident to CW status.

Statement of Need:

Title VII of the Consolidated Natural Resources Act of 2008 (CNRA) created a new, temporary, Commonwealth of the Northern Mariana Islands (CNMI)-only transitional worker classification. The transitional worker program is intended to provide for an orderly transition from the CNMI permit system to the U.S. Federal immigration system under the Immigration and Nationality Act.

Anticipated Cost and Benefits:

Each of the estimated 22,000 CNMI transitional workers will be required to pay a $320 fee per year, for an annualized cost to the affected public of $7 million. However, since these workers will not have to pay CNMI fees, the total present value costs of this rule are a net cost savings ranging from $9.8 million to $13.4 million depending on the validity period of CW status (1 or 2 years), whether out-of-status aliens present in the CNMI are eligible for CW status, and the discount rate applied. The intended benefits of the rule include improvements in national and homeland security and protection of human rights.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/27/09	74 FR 55094
Interim Final Rule Comment Period End	11/27/09	
Interim Final Rule Comment Period End Extended	12/09/09	74 FR 64997
Interim Final Rule Comment Period End	01/08/10	
Final Action	03/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State

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RIN: 1615–AB76

DHS—USCIS

71. APPLICATION OF IMMIGRATION REGULATIONS TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Priority:

Other Significant

Legal Authority:

PL 110–229

CFR Citation:

8 CFR 208 and 209; 8 CFR 214 and 215; 8 CFR 217; 8 CFR 235; 8 CFR 248; 8 CFR 264; 8 CFR 274a

Legal Deadline:

Final, Statutory, November 28, 2009, Consolidated Natural Resources Act (CNRA) of 2008.

Abstract:

On October 28, 2009, the Department of Homeland Security (DHS) and the Department of Justice (DOJ) published a joint interim final rule in the Federal Register implementing conforming amendments to their respective regulations to comply with the Consolidated Natural Resources Act of 2008 (CNRA). The CNRA extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI). This rule finalizes the interim rule with additional changes to provisions concerning adjustment of status and change of status of aliens in the CNMI, immigrant petitions for multinational executives, acceptable documents for employment eligibility verification (Form I-9), and the Northern Marianas identification card. It is intended that such changes will ameliorate any adverse impact that implementation of the CNRA may have on CNMI employers and alien workers.

Statement of Need:

The Department of Homeland Security (DHS) and the Department of Justice (DOJ) are implementing conforming amendments to their respective regulations to comply with the Consolidated Natural Resources Act of 2008 (CNRA). The CNRA extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI). This rule amends the regulations governing: Asylum and credible fear of persecution determinations; references to the geographical ''United States'' and its territories and possessions; alien classifications authorized for employment; documentation acceptable for Employment Eligibility Verification; employment of unauthorized aliens; and adjustment of status of immediate relatives admitted under the Guam-CNMI Visa Waiver Program. Additionally, this rule makes a technical change to correct a citation error in the regulations governing the Visa Waiver Program and the regulations governing asylum and withholding of removal.

Anticipated Cost and Benefits:

The stated goals of the CNRA are to ensure effective border control procedures, to properly address national security and homeland security concerns by extending U.S. immigration law to the CNMI, and to maximize the CNMI's potential for future economic and business growth. While those goals are expected to be partly facilitated by the changes made in this rule, they are general and qualitative in nature. There are no specific changes made by this rule with sufficiently identifiable direct or indirect economic impacts so as to be quantified.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/28/09	74 FR 55725
Interim Final Rule Comment Period End	11/27/09	
Correction	12/22/09	74 FR 67969
Final Action	03/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

CIS 2460-08

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RIN: 1615–AB77

DHS—U.S. Coast Guard (USCG)

PROPOSED RULE STAGE

72. OUTER CONTINENTAL SHELF ACTIVITIES

Priority:

Other Significant

Legal Authority:

43 USC 1333(d)(1); 43 USC 1348(c); 43 USC 1356; DHS Delegation No 0170.1

CFR Citation:

33 CFR 140 to 147

Legal Deadline:

None

Abstract:

The Coast Guard is the lead Federal agency for workplace safety and health, other than for matters generally related to drilling and production that are regulated by the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE) on facilities and vessels engaged in the exploration for, or development or production of, minerals on the OCS. This project would revise the regulations on Outer Continental Shelf (OCS) activities to: 1) Add new requirements for fixed OCS facilities for lifesaving, fire protection, training, hazardous materials used as stores and accommodation spaces; and 2) address foreign vessels engaged in OCS activities to comply with requirements similar to those imposed on U.S. vessels similarly engaged. This project would affect the owners and operators of facilities and vessels engaged in offshore activities.

Statement of Need:

The last major revision of Coast Guard OCS regulations occurred in 1982. At

that time, the offshore industry was not as technologically advanced as it is today. Offshore activities were in relatively shallow water near land, where help was readily available during emergency situations. The equipment regulations required only basic equipment, primarily for lifesaving appliances and hand-held portable fire extinguishers. Since 1982, the requirements in 33 CFR chapter I, subchapter N, have not kept pace with the changing offshore technology or the safety problems created as OCS activities extend to deeper water (10,000 feet) and move farther offshore (150 miles). This rulemaking reassesses all of our current OCS regulations in order to help make the OCS a safer workplace.

Summary of Legal Basis:

The authority for the Coast Guard to prescribe, change, revise, or amend these regulations is provided under 14 U.S.C. 85; 43 U.S.C. 1333(d)(1), 1347(c), 1348(c), 1356; and Department of Homeland Security Delegation No. 0170.1. Section 145.100 also issued under 14 U.S.C. 664 and 31 U.S.C. 9701.

Alternatives:

The Coast Guard considered filling the shortfall in existing OCS regulations by extending the current vessel and Mobile Offshore Drilling Unit regulations. This approach was rejected after concluding that the differences between fixed and floating units made this approach impractical. We also considered requiring compliance with industry standards. Those standards, though, do not cover all of the areas needing regulation. The new rule would adopt available consensus standards where appropriate.

Nonregulatory alternatives, such as agency policy documents and voluntary acceptance of industry standards were also considered. They were also rejected because enforceable regulations are necessary in order to carry out the relevant statutes.

Anticipated Cost and Benefits:

The Coast Guard is currently estimating the costs and benefits associated with this rulemaking. Industry would incur additional costs as a result of provisions for training, firefighting, lifesaving, and monitoring of unsafe conditions. This proposed rule supports the Commandant's strategic goals of marine safety and environmental stewardship and is designed to help make the OCS a safer workplace by preventing accidents or reducing the consequences of accidents on the OCS. In addition, the proposed rule will include measures that meet the changing offshore technology and the safety problems it creates as OCS activities extend to deeper water and move farther offshore.

Risks:

The extensive revisions to health and safety requirements for OCS units in this rule would substantially reduce the risk of injury or illness on those units.

Timetable:

Action	Date	FR Cite
Request for Comments	06/27/95	60 FR 33185
Comment Period End	09/25/95	
NPRM	12/07/99	64 FR 68416
NPRM Correction	02/22/00	65 FR 8671
NPRM Comment Period Extended	03/16/00	65 FR 14226
NPRM Comment Period Extended	06/30/00	65 FR 40559
NPRM Comment Period End	11/30/00	
Supplemental NPRM	08/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

Additional Information:

Docket Numbers: The notice of request for comments published June 27, 1995, was assigned Coast Guard docket number 95-016. Following the request for comments, that docket was terminated. This project continues under Docket No. USCG-1998-3868 and RIN 1625-AA18. This docket may be viewed online by going to www.regulations.gov.

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 1625–AA18

DHS—USCG

73. INSPECTION OF TOWING VESSELS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

46 USC 3103; 46 USC 3301; 46 USC 3306; 46 USC 3308; 46 USC 3316; 46 USC 3703; 46 USC 8104; 46 USC 8904; DHS Delegation No 0170.1

CFR Citation:

46 CFR 2; 46 CFR 15; 46 CFR 136 to 144

Legal Deadline:

NPRM, Statutory, January 13, 2011.

On October 15, 2010, the Coast Guard Authorization Act of 2010 was enacted as Public Law 111-281. It requires that a proposed rule be issued within 90 days after enactment and that a final rule be issued within 1 year of enactment.

Abstract:

This rulemaking would implement a program of inspection for certification of towing vessels, which were previously uninspected. It would prescribe standards for safety management systems and third-party auditors and surveyors, along with standards for construction, operation, vessel systems, safety equipment, and recordkeeping.

Statement of Need:

This rulemaking would implement sections 409 and 415 of the Coast Guard and Maritime Transportation Act of 2004. The intent of the proposed rule is to promote safer work practices and reduce casualties on towing vessels by ensuring that towing vessels adhere to prescribed safety standards and safety management systems. This proposed rule was developed in cooperation with the Towing Vessel Safety Advisory Committee. It would establish a new subchapter dedicated to towing vessels; covering vessel equipment, systems, operational standards, and inspection requirements.

Summary of Legal Basis:

Proposed new subchapter authority: 46 U.S.C. 3103, 3301, 3306, 3308, 3316, 8104, 8904; 33 CFR 1.05; DHS Delegation 0170.1.

The Coast Guard and Maritime Transportation Act of 2004 (CGMTA 2004), Public Law 108-293, 118 Stat. 1028, (Aug. 9, 2004), established new

authorities for towing vessels as follows:

Section 415 added towing vessels, as defined in section 2101 of title 46, United States Code (U.S.C.), as a class of vessels that are subject to safety inspections under chapter 33 of that title (Id. at 1047).

Section 415 also added new section 3306(j) of title 46, authorizing the Secretary of Homeland Security to establish, by regulation, a safety management system appropriate for the characteristics, methods of operation, and nature of service of towing vessels (Id.).

Section 409 added new section 8904(c) of title 46, U.S.C., authorizing the Secretary to establish, by regulation, ''maximum hours of service (including recording and recordkeeping of that service) of individuals engaged on a towing vessel that is at least 26 feet in length measured from end to end over the deck (excluding the sheer).'' (Id. at 1044-45).

Alternatives:

We considered the following alternatives for the notice of proposed rulemaking (NPRM):

One regulatory alternative would be the addition of towing vessels to one or more existing subchapters that deal with other inspected vessels, such as cargo and miscellaneous vessels (subchapter I), offshore supply vessels (subchapter L), or small passenger vessels (subchapter T). We do not believe, however, that this approach would recognize the often ''unique'' nature and characteristics of the towing industry in general and towing vessels in particular.

In addition to inclusion in a particular existing subchapter (or subchapters) for equipment-related concerns, the same approach could be adopted for use of a safety management system by requiring compliance with title 33, Code of Federal Regulations, part 96 (Rules for the Safe Operation of Vessels and Safety Management Systems). Adoption of these requirements, without an alternative safety management system, would also not be ''appropriate for the characteristics, methods of operation, and nature of service of towing vessels.''

The Coast Guard has had extensive public involvement (four public meetings, over 100 separate comments submitted to the docket, as well as extensive ongoing dialogue with members of the Towing Safety Advisory Committee (TSAC)) regarding development of these regulations. Adoption of one of the alternatives discussed above would likely receive little public or industry support, especially considering the TSAC efforts toward development of standards to be incorporated into a separate subchapter dealing specifically with the inspection of towing vessels.

An approach that would seem to be more in keeping with the intent of Congress would be the adoption of certain existing standards from those applied to other inspected vessels. In some cases, these existing standards would be appropriately modified and tailored to the nature and operation of certain categories of towing vessels. The adopted standards would come from inspected vessels that have demonstrated ''good marine practice'' within the maritime community. These regulations would be incorporated into a subchapter specifically addressing the inspection for certification of towing vessels. The law requiring the inspection for certification of towing vessels is a statutory mandate, compelling the Coast Guard to develop regulations appropriate for the nature of towing vessels and their specific industry.

Anticipated Cost and Benefits:

We estimate that owners and operators of towing vessels would incur additional costs from this rulemaking. The cost of this rulemaking would involve provisions for safety management systems, standards for construction, operation, vessel systems, safety equipment, and recordkeeping. Our cost assessment includes existing and new vessels. We are currently developing cost estimates for the proposed rule.

The Coast Guard developed the requirements in the proposed rule by researching both the human factors and equipment failures that caused towing vessel accidents. We believe that the proposed rule would address a wide range of causes of towing vessel accidents and supports the main goal of improving safety in the towing industry. The primary benefit of the proposed rule is an increase in vessel safety and a resulting decrease in the risk of towing vessel accidents and their consequences.

Risks:

This regulatory action would reduce the risk of towing vessel accidents and their consequences. Towing vessel accidents result in fatalities, injuries, property damage, pollution, and delays.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

State

Additional Information:

The Regulations.gov docket number is USCG-2006-24412.

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 1625–AB06

DHS—USCG

74. ASSESSMENT FRAMEWORK AND ORGANIZATIONAL RESTATEMENT REGARDING PREEMPTION FOR CERTAIN REGULATIONS ISSUED BY THE COAST GUARD

Priority:

Other Significant

Legal Authority:

14 USC 2; 14 USC 91; 33 USC 1223; 33 USC 1231; 33 USC 1903(b); 46 USC 3203; 46 USC 3306; 46 USC 3703; 46 USC 3717; 46 USC 4302; 46 USC 6101; DHS Delegation No 0170.1

CFR Citation:

33 CFR 1.06

Legal Deadline:

None

Abstract:

The proposed rule will operate in two ways. First, it will describe the Coast Guard's interpretation of the preemptive effect of certain current Coast Guard regulations. This analysis will apply to previously promulgated

regulations even if a complete description of federalism implications was clearly articulated in the development of the regulation. Second, the rule will set forth criteria and a process that the Coast Guard will undertake in future regulatory projects for evaluating the preemptive impact of those regulations. This part of the analysis is prospective in nature and will lay out a roadmap for future regulatory projects regarding federalism and preemption principles. This rulemaking will support the Coast Guard's broad role and responsibility of further enhancing maritime stewardship by reinforcing a uniform maritime regulatory regime that is predictable and useful for maritime interests.

Statement of Need:

In light of recent Federal court cases and the President's May 20, 2009, memorandum regarding preemption, the Coast Guard believes that a clear agency statement of the preemptive impact of our regulations, particularly those regulations issued prior to the promulgation of E.O. 13132, can be of great benefit to State and local governments, the public, and regulated entities. Therefore, the Coast Guard intends to issue a general statement of preemption policy, coupled with specific statements of policy regarding regulations issued under the authority of statutes with preemptive effect, including, among others, the Ports and Waterways Safety Act (PWSA) of 1972, as amended (33 U.S.C. 1221 et. seq.). The Coast Guard proposes to publish these policies in a new section 1.06 of title 33 of the Code of Federal Regulations, to allow for easy access by interested persons and parties.

Summary of Legal Basis:

The statutory authorities for the Coast Guard to prescribe, change, revise, or amend these regulations are provided under 14 U.S.C. 2 and 91; 33 U.S.C. 1223, 1231, and 1903(b); 46 U.S.C. 3203, 3306, 3703, 3717, 4302, and 6101; and Department of Homeland Security Delegation No. 0170.1.

Alternatives:

The Coast Guard considered alternative mechanisms for restating the preemptive effect of regulations, including the use of a notice of policy. These methods would not provide the same level of transparency as codification in the Code of Federal Regulations, however, because they would not be as readily located by State and local government or other members of the public. They also would not satisfy the President's May 20, 2009, memorandum regarding preemption, which directs agencies to include preemption provisions in the codified regulation.

Anticipated Cost and Benefits:

We expect no additional cost impacts to the industry from this proposed rule, because it only restates and clarifies the status of Federal and State law as it exists.

Risks:

Not applicable to this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

The docket number for this rulemaking is USCG-2008-1259. The docket can be found at www.regulations.gov.

URL For More Information:

http://www.regulations.gov

URL For Public Comments:

http://www.regulations.gov

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RIN: 1625–AB32

DHS—USCG

75. UPDATES TO MARITIME SECURITY

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

33 USC 1226; 33 USC 1231; 46 USC ch 701; 50 USC 191 and 192; EO 12656; 3 CFR 1988 Comp, p 585; 33 CFR 1.05–1; 33 CFR 6.04–11; 33 CFR 6.14; 33 CFR 6.16; 33 CFR 6.19; DHS Delegation No 0170.1

CFR Citation:

33 CFR subchapter H

Legal Deadline:

None

Abstract:

The Coast Guard proposes certain additions, changes, and amendments to 33 CFR, subchapter H. Subchapter H is comprised of parts 101 thru 106. Subchapter H implements the major provisions of the Maritime Transportation Security Act of 2002. This rulemaking is the first major revision to subchapter H. The proposed changes would further enhance the security of our Nation's ports, vessels, facilities, and Outer Continental Shelf facilities and incorporate requirements from legislation implemented since the original publication of these regulations in 2003. This rulemaking has international interest because of the close relationship between subchapter H and the International Ship and Port Security Code (ISPS).

Statement of Need:

This rulemaking is needed to incorporate Coast Guard Policy Advisory Council (PAC) decisions on the interpretation of regulations, guidance provided in response to questions to the Maritime Transportation Security Act of 2002 (MTSA) hotline, and to implement various requirements found in the Security and Accountability for Every Port Act of 2006 and the Coast Guard and Maritime Transportation Act of 2006. In addition, this rulemaking is needed to incorporate recommendations from the Merchant Marine Personnel Advisory Committee. It also incorporates various U.S. Maritime Administration and International Maritime Organization voluntary consensus standards related to maritime security training.

Summary of Legal Basis:

The fundamental legal basis for subchapter H remains the Maritime Transportation Security Act of 2002 as amended by the Security and Accountability for Every Port Act of 2006 and the Coast Guard and Maritime Transportation Act of 2006.

Alternatives:

The Coast Guard is currently evaluating a number of alternatives based on applicability and risk (threat,

vulnerability, and consequence). However, an overall update to make necessary changes to subchapter H and address improvements resulting from our experience since 2003 is prudent.

Anticipated Cost and Benefits:

The Coast Guard is currently estimating the costs associated with this rulemaking. Industry would incur additional costs as a result of provisions for standardized training requirements, updates to security plans and other documentation, and full-scale exercises requirements for high-risk facilities. The potential benefit from these provisions is reduction in risk of security incidents. This rulemaking expands and improves competencies associated with Maritime Domain Awareness (MDA). MDA is the effective understanding of anything associated with the global maritime domain that could impact the United States' security, safety, economy, or environment. The proposed rule would improve MDA through training, exercise, and security plan enhancements. As a result, the primary benefit of the proposed rule would result from reducing the risk of a Transportation Security Incident (TSI) and therefore averting or mitigating the economic and environmental consequences of a TSI.

Risks:

With this rulemaking, the Coast Guard seeks to maintain the risk reduction goals established with the promulgation of the original MTSA regulations and further reduce risks by incorporating provisions related to more recent legislation and warranted by our experience with subchapter H since 2003.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information:

The Regulations.gov docket number for this rulemaking is USCG-2007-0009.

URL For More Information:

http://www.regulations.gov

URL For Public Comments:

http://www.regulations.gov

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RIN: 1625–AB38

DHS—USCG

FINAL RULE STAGE

76. STANDARDS FOR LIVING ORGANISMS IN SHIPS' BALLAST WATER DISCHARGED IN U.S. WATERS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

16 USC 4711

CFR Citation:

33 CFR 151

Legal Deadline:

None

Abstract:

This rulemaking adds performance standards to 33 CFR part 151, subparts C and D, for discharges of ballast water. It supports the Coast Guard's broad roles and responsibilities of maritime safety and maritime stewardship. This project is economically significant.

Statement of Need:

The unintentional introduction of nonindigenous species into U.S. waters via the discharge of vessels' ballast water has had significant impacts to the Nation's aquatic resources, biological diversity, and coastal infrastructures. This rulemaking would amend the ballast water management requirements (33 CFR part 151, subparts C and D) and establish standards that specify the level of biological treatment that must be achieved by a ballast water treatment system before ballast water can be discharged into U.S. waters. This would increase the Coast Guard's ability to protect U.S. waters against the introduction of nonindigenous species via ballast water discharges.

Summary of Legal Basis:

Congress has directed the Coast Guard to develop ballast water regulations to prevent the introduction of nonindigenous species into U.S. waters under the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 and reauthorized and amended it with the National Invasive Species Act of 1996. This rulemaking does not have a statutory deadline.

Alternatives:

The Coast Guard would use the standard rulemaking process to develop regulations for ballast water discharge standards. Nonregulatory alternatives such as navigation and vessel inspection circulars and the Marine Safety Manual have been considered and may be used for the development of policy and directives to provide the maritime industry and our field offices guidelines for implementation of the regulations. Nonregulatory alternatives cannot be substituted for the standards we would develop with this rule. Congress has directed the Coast Guard to review and revise its BWM regulations not less than every 3 years based on the best scientific information available to the Coast Guard at the time of that review.

On August 28, 2009, the Coast Guard published the Notice of Proposed Rulemaking (NPRM) entitled Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters in the Federal Register (74 FR 44632). The proposed rule included a phase-in schedule (phase-one and phase-two) for the implementation of ballast water discharge standards based on vessel's ballast water capacity and build date (one that is one thousand times more stringent). The proposed phase-one standard is the same standard adopted by the International Maritime Organization (IMO) for concentration of living organisms in ballast water discharges. For phase-two, we propose incorporating a practicability review to determine whether technology to achieve a more stringent standard than

the IMO standard can practicably be implemented.

Based on the comments received, we plan to move forward swiftly with a final rule.

Anticipated Cost and Benefits:

This rulemaking would affect certain vessels operating in U.S. waters seeking to discharge ballast water into waters of the United States. Owners and operators of these vessels would be required to install and operate Coast Guard approved ballast water management systems before discharging ballast water into U.S. waters. Cost estimates for individual vessels vary due to the vessel class, type and size, and the particular technology of the ballast water management system installed. We expect the highest annual costs of this rulemaking during the periods of installation as the bulk of the existing fleet of vessels must meet the standards according to proposed phase-in schedules. The primary cost driver of this rulemaking is the installation costs for existing vessels. Operating and maintenance costs are substantially less than the installation costs.

We evaluated the benefits of this rulemaking by researching the impact of aquatic nonindigenous species (NIS) invasions in the U.S. waters, since ballast water discharge is one of the main vectors of NIS introductions in the marine environment. The primary benefit of this rulemaking would be the economic and environmental damages avoided from the reduction in the number of new invasions as a result of the reduction in concentration of organisms in discharged ballast water. We expect that the benefits of this rulemaking would increase as the technology is developed to achieve more stringent ballast water discharge standards.

The Coast Guard issued a preliminary regulatory analysis of the costs, benefits, and other impacts of the 2009 NPRM. In this preliminary analysis, we estimated the total phase-one costs to be about $1.18 billion over a 10-year period of analysis (this and other values below at a 7 percent discount rate). As previously described, the implementation costs vary by year. We estimated the annualized cost over the same period to be approximately $168 million per year. We did not provide cost estimates for the phase-two costs in this preliminary analysis since data and information was not available at that time for technology that would meet the anticipated phase-two standard (1,000 x the IMO standard). In the same preliminary analysis, we estimated annualized benefits (damages avoided) for phase one are potentially as high as $553 million, with a mid-range estimate of $165 million to $282 million per year. We estimated total phase-one benefits to be as high as $3.88 billion, with a mid-range estimate of $1.16 billion to $1.98 billion over a 10-year period of analysis.

The Coast Guard has received public comments on the impacts of the NPRM and will be incorporating these comments into a revised Regulatory Analysis for the next rulemaking publication.

Risks:

Ballast water discharged from ships is a significant pathway for the introduction and spread of non-indigenous aquatic nuisance species. These organisms, which may be plants, animals, bacteria or pathogens, have the potential to displace native species, degrade native habitats, spread disease and disrupt human economic and social activities that depend on water resources. It is estimated that for areas such as the Great Lakes, San Francisco Bay, and Chesapeake Bay, one nonindigenous species becomes established per year. At this time, it is difficult to estimate the reduction of risk that would be accomplished by promulgating this rulemaking; however, it is expected a major reduction will occur. We are currently requesting information on costs and benefits of more stringent ballast water discharge standards.

Timetable:

Action	Date	FR Cite
ANPRM	03/04/02	67 FR 9632
ANPRM Comment Period End	06/03/02	
NPRM	08/28/09	74 FR 44632
Public Meeting	09/14/09	74 FR 46964
Public Meeting	09/22/09	74 FR 48190
Public Meeting	09/28/09	74 FR 49355
Notice—Extension of Comment Period	10/15/09	74 FR 52941
Public Meeting	10/22/09	74 FR 54533
Public Meeting Correction	10/26/09	74 FR 54944
NPRM Comment Period End	12/04/09	74 FR 52941
Final Rule	04/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

State

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information:

The Regulations.gov docket number for this rulemaking is USCG-2001-10486.

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 1625–AA32

DHS—U.S. Customs and Border Protection (USCBP)

FINAL RULE STAGE

77. IMPORTER SECURITY FILING AND ADDITIONAL CARRIER REQUIREMENTS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

PL 109–347, sec 203; 5 USC 301; 19 USC 66; 19 USC 1431; 19 USC 1433 to 1434; 19 USC 1624; 19 USC 2071 note; 46 USC 60105

CFR Citation:

19 CFR 4; 19 CFR 12.3; 19 CFR 18.5; 19 CFR 103.31a; 19 CFR 113; 19 CFR 123.92; 19 CFR 141.113; 19 CFR 146.32; 19 CFR 149; 19 CFR 192.14

Legal Deadline:

None

Abstract:

This interim final rule implements the provisions of section 203 of the

Security and Accountability for Every Port Act of 2006. It amends CBP Regulations to require carriers and importers to provide to CBP, via a CBP-approved electronic data interchange system, information necessary to enable CBP to identify high-risk shipments to prevent smuggling and insure cargo safety and security. Under the rule, importers and carriers must submit specified information to CBP before the cargo is brought into the United States by vessel. This advance information will improve CBP's risk assessment and targeting capabilities, assist CBP in increasing the security of the global trading system, and facilitate the prompt release of legitimate cargo following its arrival in the United States.

Statement of Need:

Vessel carriers are currently required to transmit certain manifest information by way of the CBP Vessel Automated Manifest System (AMS) 24 hours prior to lading of containerized and non-exempt break bulk cargo at a foreign port. For the most part, this is the ocean carrier's or non-vessel operating common carrier (NVOCC)'s cargo declaration. CBP analyzes this information to generate its risk assessment for targeting purposes.

Internal and external government reviews have concluded that more complete advance shipment data would produce even more effective and vigorous cargo risk assessments. In addition, pursuant to section 203 of the Security and Accountability for Every Port Act of 2006 (Pub. L. 109-347, 6 U.S.C. 943) (SAFE Port Act), the Secretary of Homeland Security, acting through the Commissioner of CBP, must promulgate regulations to require the electronic transmission of additional data elements for improved high-risk targeting, including appropriate security elements of entry data for cargo destined to the United States by vessel prior to loading of such cargo on vessels at foreign seaports.

Based upon its analysis, as well as the requirements under the SAFE Port Act, CBP is requiring the electronic transmission of additional data for improved high-risk targeting. Some of these data elements are being required from carriers (Container Status Messages and Vessel Stow Plan) and others are being required from ''importers,'' as that term is defined for purposes of the regulations.

This rule intends to improve CBP's risk assessment and targeting capabilities and enables the agency to facilitate the prompt release of legitimate cargo following its arrival in the United States. The information will assist CBP in increasing the security of the global trading system and, thereby, reducing the threat to the United States and world economy.

Summary of Legal Basis:

Pursuant to section 203 of the Security and Accountability for Every Port Act of 2006 (Pub. L. 109-347, 6 U.S.C. 943) (SAFE Port Act), the Secretary of Homeland Security, acting through the Commissioner of CBP, must promulgate regulations to require the electronic transmission of additional data elements for improved high-risk targeting, including appropriate security elements of entry data for cargo destined to the United States by vessel prior to loading of such cargo on vessels at foreign seaports.

Alternatives:

CBP considered and evaluated the following four alternatives:

Alternative 1 (the chosen alternative): Importer Security Filings and Additional Carrier Requirements are required. Bulk cargo is exempt from the Importer Security Filing requirements;

Alternative 2: Importer Security Filings and Additional Carrier Requirements are required. Bulk cargo is not exempt from the Importer Security Filing requirements;

Alternative 3: Only Importer Security Filings are required. Bulk cargo is exempt from the Importer Security Filing requirements; and

Alternative 4: Only the Additional Carrier Requirements are required.

Anticipated Cost and Benefits:

When the NPRM was published, CBP estimated that approximately 11 million import shipments conveyed by 1,000 different carrier companies operating 37,000 unique voyages or vessel-trips to the United States will be subject to the rule. Annualized costs range from $890 million to $7.0 billion (7 percent discount rate over 10 years).

The annualized cost range results from varying assumptions about the importers' estimated security filing transaction costs or fees charged to the importers by the filing parties, the potential for supply chain delays, and the estimated costs to carriers for transmitting additional data to CBP.

The regulation may increase the time shipments are in transit, particularly for shipments consolidated in containers. For such shipments, the supply chain is generally more complex and the importer has less control of the flow of goods and associated security filing information. Foreign cargo consolidators may be consolidating multiple shipments from one or more shippers in a container destined for one or more buyers or consignees. In order to ensure that the security filing data is provided by the shippers to the importers (or their designated agents) and is then transmitted to and accepted by CBP in advance of the 24-hour deadline, consolidators may advance their cut-off times for receipt of shipments and associated security filing data.

These advanced cut-off times would help prevent a consolidator or carrier from having to unpack or unload a container in the event the security filing for one of the shipments contained in the container is inadequate or not accepted by CBP. For example, consolidators may require shippers to submit, transmit, or obtain CBP approval of their security filing data before their shipments are stuffed in the container, before the container is sealed, or before the container is delivered to the port for lading. In such cases, importers would likely have to increase the times they hold their goods as inventory, and thus incur additional inventory carrying costs to sufficiently meet these advanced cut-off times imposed by their foreign consolidators. The high end of the cost ranges presented assumes an initial supply chain delay of 2 days for the first year of implementation (2008) and a delay of 1 day for years 2 through 10 (2009 to 2017).

Ideally, the quantification and monetization of the benefits of this regulation would involve estimating the current level of risk of a successful terrorist attack, absent this regulation, and the incremental reduction in risk resulting from implementation of the regulation. CBP would then multiply the change by an estimate of the value individuals place on such a risk reduction to produce a monetary estimate of direct benefits. However, existing data limitations and a lack of complete understanding of the true risks posed by terrorists prevent us from establishing the incremental risk reduction attributable to this rule. As a result, CBP has undertaken a ''break-even'' analysis to inform decisionmakers of the necessary incremental change in the probability of such an event occurring that would result in direct benefits equal to the costs of the proposed rule. CBP's

analysis finds that the incremental costs of this regulation are relatively small compared to the median value of a shipment of goods, despite the rather large absolute estimate of present value cost.

The benefit of this rule is the improvement of CBP's risk assessment and targeting capabilities, while at the same time, enabling CBP to facilitate the prompt release of legitimate cargo following its arrival in the United States. The information will assist CBP in increasing the security of the global trading system, and thereby reducing the threat to the United States and the world economy.

Timetable:

Action	Date	FR Cite
NPRM	01/02/08	73 FR 90
NPRM Comment Period End	03/03/08	
NPRM Comment Period Extended	02/01/08	73 FR 6061
NPRM Comment Period End	03/18/08	
Interim Final Rule	11/25/08	73 FR 71730
Interim Final Rule Effective	01/26/09	
Interim Final Rule Comment Period End	06/01/09	
Correction	07/14/09	74 FR 33920
Correction	12/24/09	74 FR 68376
Final Action	03/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 1651–AA70

DHS—USCBP

78. CHANGES TO THE VISA WAIVER PROGRAM TO IMPLEMENT THE ELECTRONIC SYSTEM FOR TRAVEL AUTHORIZATION (ESTA) PROGRAM

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

8 USC 1103; 8 USC 1187; 8 CFR 2

CFR Citation:

8 CFR 217.5

Legal Deadline:

None

Abstract:

This rule implements the Electronic System for Travel Authorization (ESTA) for aliens who travel to the United States under the Visa Waiver Program (VWP) at air or sea ports of entry. Under the rule, VWP travelers are required to provide certain biographical information to CBP electronically before departing for the United States. This allows CBP to determine before their departure whether these travelers are eligible to travel to the United States under the VWP and whether such travel poses a security risk. The rule is intended to fulfill the requirements of section 711 of the Implementing recommendations of the 9/11 Commission Act of 2007 (9/11 Act). In addition to fulfilling a statutory mandate, the rule serves the twin goals of promoting border security and legitimate travel to the United States. By modernizing the VWP, the ESTA is intended to increase national security and to provide for greater efficiencies in the screening of international travelers by allowing for vetting of subjects of potential interest well before boarding, thereby reducing traveler delays at the ports of entry.

Statement of Need:

Section 711 of the 9/11 Act requires the Secretary of Homeland Security, in consultation with the Secretary of State, to develop and implement a fully automated electronic travel authorization system that will collect biographical and other information in advance of travel to determine the eligibility of the alien to travel to the United States, and to determine whether such travel poses a law enforcement or security risk. ESTA is intended to fulfill these statutory requirements.

Under this rule, VWP travelers provide certain information to CBP electronically before departing for the United States. VWP travelers who receive travel authorization under ESTA are not required to complete the paper Form I-94W when arriving on a carrier that is capable of receiving and validating messages pertaining to the traveler's ESTA status as part of the traveler's boarding status. By automating the I-94W process and establishing a system to provide VWP traveler data in advance of travel, CBP is able to determine the eligibility of citizens and eligible nationals from VWP countries to travel to the United States and to determine whether such travel poses a law enforcement or security risk, before such individuals begin travel to the United States. ESTA provides for greater efficiencies in the screening of international travelers by allowing CBP to identify subjects of potential interest before they depart for the United States, thereby increasing security and reducing traveler delays upon arrival at U.S. ports of entry.

Summary of Legal Basis:

The ESTA program is based on congressional authority provided under section 711 of the Implementing Recommendations of the 9/11 Commission Act of 2007 and section 217 of the Immigration and Nationality Act (INA).

Alternatives:

CBP considered three alternatives to this rule:

1. The ESTA requirements in the rule, but with a $1.50 fee per each travel authorization (more costly)

2. The ESTA requirements in the rule, but with only the name of the passenger and the admissibility questions on the I-94W form (less burdensome)

3. The ESTA requirements in the rule, but only for the countries entering the VWP after 2009 (no new requirements for VWP, reduced burden for newly entering countries)

CBP determined that the rule provides the greatest level of enhanced security and efficiency at an acceptable cost to traveling public and potentially affected air carriers.

Anticipated Cost and Benefits:

The purpose of ESTA is to allow DHS and CBP to establish the eligibility of certain foreign travelers to travel to the United States under the VWP, and whether the alien's proposed travel to the United States poses a law enforcement or security risk. Upon review of such information, DHS will

determine whether the alien is eligible to travel to the United States under the VWP.

Costs to Air & Sea Carriers

CBP estimated that eight U.S.-based air carriers and eleven sea carriers will be affected by the rule. An additional 35 foreign-based air carriers and five sea carriers will be affected. CBP concluded that costs to air and sea carriers to support the requirements of the ESTA program could cost $137 million to $1.1 billion over the next 10 years depending on the level of effort required to integrate their systems with ESTA, how many passengers they need to assist in applying for travel authorizations, and the discount rate applied to annual costs.

Costs to Travelers

ESTA will present new costs and burdens to travelers in VWP countries who were not previously required to submit any information to the U.S. Government in advance of travel to the United States. Travelers from Roadmap countries who become VWP countries will also incur costs and burdens, though these are much less than obtaining a nonimmigrant visa (category B1/B2), which is currently required for short-term pleasure or business to travel to the United States. CBP estimated that the total quantified costs to travelers will range from $1.1 billion to $3.5 billion depending on the number of travelers, the value of time, and the discount rate. Annualized costs are estimated to range from $133 million to $366 million.

Benefits

As set forth in section 711 of the 9/11 Act, it was the intent of Congress to modernize and strengthen the security of the Visa Waiver Program under section 217 of the Immigration and Nationality Act (INA, 8 U.S.C. 1187) by simultaneously enhancing program security requirements and extending visa-free travel privileges to citizens and eligible nationals of eligible foreign countries that are partners in the war on terrorism.

By requiring passenger data in advance of travel, CBP may be able to determine, before the alien departs for the United States, the eligibility of citizens and eligible nationals from VWP countries to travel to the United States under the VWP, and whether such travel poses a law enforcement or security risk. In addition to fulfilling a statutory mandate, the rule serves the twin goals of promoting border security and legitimate travel to the United States. By modernizing the VWP, ESTA is intended to both increase national security and provide for greater efficiencies in the screening of international travelers by allowing for the screening of subjects of potential interest well before boarding, thereby reducing traveler delays based on potentially lengthy processes at U.S. ports of entry.

CBP concluded that the total benefits to travelers could total $1.1 billion to $3.3 billion over the period of analysis. Annualized benefits could range from $134 million to $345 million.

In addition to these benefits to travelers, CBP and the carriers should also experience the benefit of not having to administer the I-94W except in limited situations. While CBP has not conducted an analysis of the potential savings, it should accrue benefits from not having to produce, ship, and store blank forms. CBP should also be able to accrue savings related to data entry and archiving. Carriers should realize some savings as well, though carriers will still have to administer the I-94 for those passengers not traveling under the VWP and the Customs Declaration forms for all passengers aboard the aircraft and vessel.

Timetable:

Action	Date	FR Cite
Interim Final Action	06/09/08	73 FR 32440
Interim Final Rule Effective	08/08/08	
Interim Final Rule Comment Period End	08/08/08	
Notice – Announcing Date Rule Becomes Mandatory	11/13/08	73 FR 67354
Final Action	03/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information:

http://www.cbp.gov/xp/cgov/travel/id__visa/esta/

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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Related RIN: Related to 1651–AA83

RIN: 1651–AA72

DHS—USCBP

79. ESTABLISHMENT OF GLOBAL ENTRY PROGRAM

Priority:

Other Significant

Legal Authority:

8 USC 1365b(k)(1); 8 USC 1365b(k)(3); 8 USC 1225; 8 USC 1185(b)

CFR Citation:

8 CFR 235; 8 CFR 103

Legal Deadline:

None

Abstract:

CBP already operates several regulatory and non-regulatory international registered traveler programs, also known as trusted traveler programs. In order to comply with the Intelligence Reform Terrorism Prevention Act of 2004 (IRPTA), CBP is proposing to amend its regulations to establish another international registered traveler program called Global Entry. The Global Entry program would expedite the movement of low-risk, frequent international air travelers by providing an expedited inspection process for pre-approved, pre-screened travelers. These travelers would proceed directly to automated Global Entry kiosks upon their arrival in the United States. This Global Entry Program, along with the other programs that have already been established, are consistent with CBP's strategic goal of facilitating legitimate trade and travel while securing the homeland. A pilot of Global Entry has been operating since June 6, 2008.

Statement of Need:

CBP has been operating the Global Entry program as a pilot at several airports since June 6, 2008, and the pilot has been very successful. As a result, there is a desire on the part of

the public that the program be established as a permanent program, and expanded, if possible. By establishing this program, CBP will make great strides toward facilitating the movement of people in a more efficient manner, thereby accomplishing our strategic goal of balancing legitimate travel with security. Through the use of biometric and recordkeeping technologies, the risk of terrorists entering the United States would be reduced. Improving security and facilitating travel at the border, both of which are accomplished by Global Entry, are primary concerns within CBP jurisdiction.

Summary of Legal Basis:

The Global Entry program is based on section 7208(k) of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), as amended by section 565 of the Consolidated Appropriations Act, which requires the Secretary of Homeland Security to create a program to expedite the screening and processing of pre-approved low risk air travelers into the United States.

Anticipated Cost and Benefits:

Global Entry is a voluntary program that provides a benefit to the public by speeding the CBP processing time for participating travelers. Travelers who are otherwise admissible to the United States will be able to enter or exit the country regardless of whether they participate in Global Entry. CBP estimates that over a 5-year period, 250,000 enrollees will be processed (an annual average of 50,000 individuals). CBP will charge a fee of $100 per applicant and estimates that each application will require 40 minutes (0.67 hours) of the enrollee's time to search existing data resources, gather the data needed, and complete and review the application form. Additionally, an enrollee will experience an ''opportunity cost of time'' to travel to an Enrollment Center upon acceptance of the initial application. We assume that 1 hour will be required for this time spent at the Enrollment Center and travel to and from the Center, though we note that during the pilot program, many applicants coordinated their trip to an Enrollment Center with their travel at the airport. We have used one hour of travel time so as not to underestimate potential opportunity costs for enrolling in the program. We use a value of $28.60 for the opportunity cost for this time, which is taken from the Federal Aviation Administration's ''Economic Values for FAA Investment and Regulatory Decisions, A Guide.'' (July 3, 2007). This value is the weighted average for U.S. business and leisure travelers. For this evaluation, we assume that all enrollees will be U.S. citizens, U.S. nationals, or Lawful Permanent Residents.

Timetable:

Action	Date	FR Cite
NPRM	11/19/09	74 FR 59932
NPRM Comment Period End	01/19/10	
Final Rule	02/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

URL For More Information:

www.globalentry.gov

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RIN: 1651–AA73

DHS—USCBP

80. IMPLEMENTATION OF THE GUAM–CNMI VISA WAIVER PROGRAM

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

PL 110–229, sec 702

CFR Citation:

8 CFR 100.4; 8 CFR 212.1; 8 CFR 233.5; 8 CFR 235.5; 19 CFR 4.7b; 19 CFR 122.49a

Legal Deadline:

Final, Statutory, November 4, 2008, PL 110–229.

Abstract:

This rule amends Department of Homeland Security (DHS) regulations to implement section 702 of the Consolidated Natural Resources Act of 2008 (CNRA). This law extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a joint visa waiver program for travel to Guam and the CNMI. This rule implements section 702 of the CNRA by amending the regulations to replace the current Guam Visa Waiver Program with a new Guam-CNMI Visa Waiver Program. The amended regulations set forth the requirements for nonimmigrant visitors who seek admission for business or pleasure and solely for entry into and stay on Guam or the CNMI without a visa. This rule also establishes six ports of entry in the CNMI for purposes of administering and enforcing the Guam-CNMI Visa Waiver Program.

Statement of Need:

Currently, aliens who are citizens of eligible countries may apply for admission to Guam at a Guam port of entry as nonimmigrant visitors for a period of fifteen (15) days or less, for business or pleasure, without first obtaining a nonimmigrant visa, provided that they are otherwise eligible for admission. Section 702(b) of the Consolidated Natural Resources Act of 2008 (CNRA), supersedes the Guam visa waiver program by providing for a visa waiver program for Guam and the Commonwealth of the Northern Mariana Islands (Guam-CNMI Visa Waiver Program). Section 702(b) requires DHS to promulgate regulations within 180 days of enactment of the CNRA to allow nonimmigrant visitors from eligible countries to apply for admission into Guam and the CNMI, for business or pleasure, without a visa, for a period of authorized stay of no longer than forty-five (45) days.

Summary of Legal Basis:

The Guam-CNMI Visa Waiver Program is based on congressional authority provided under 702(b) of the Consolidated Natural Resources Act of 2008 (CNRA).

Alternatives:

None

Anticipated Cost and Benefits:

The most significant change for admission to the CNMI as a result of the rule will be for visitors from those countries who are not included in either the existing U.S. Visa Waiver Program or the Guam-CNMI Visa Waiver Program established by the rule. These visitors must apply for U.S. visas, which require in-person interviews at U.S. embassies or consulates and higher fees than the CNMI currently assesses for its visitor

entry permits. CBP anticipates that the annual cost to the CNMI will be $6 million. These are losses associated with the reduced visits from foreign travelers who may no longer visit the CNMI upon implementation of this rule.

The anticipated benefits of the rule are enhanced security that will result from the federalization of the immigration functions in the CNMI.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/09	74 FR 2824
Interim Final Rule Effective	01/16/09	
Interim Final Rule Comment Period End	03/17/09	
Technical Amendment; Change of Implementation Date	05/28/09	74 FR 25387
Final Action	03/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

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Related RIN: Related to 1651–AA81

RIN: 1651–AA77

DHS—Transportation Security Administration (TSA)

PROPOSED RULE STAGE

81. LARGE AIRCRAFT SECURITY PROGRAM, OTHER AIRCRAFT OPERATOR SECURITY PROGRAM, AND AIRPORT OPERATOR SECURITY PROGRAM

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

6 USC 469; 18 USC 842; 18 USC 845; 46 USC 70102 to 70106; 46 USC 70117; 49 USC 114; 49 USC114(f)(3); 49 USC 5103; 49 USC 5103a; 49 USC 40113; 49 USC 44901 to 44907; 49 USC 44913 to 44914; 49 USC 44916 to 44918; 49 USC 44932; 49 USC 44935 to 44936; 49 USC 44942; 49 USC 46105

CFR Citation:

49 CFR 1515; 49 CFR 1520; 49 CFR 1522; 49 CFR 1540; 49 CFR 1542; 49 CFR 1544; 49 CFR 1550

Legal Deadline:

None

Abstract:

On October 30, 2008, the Transportation Security Administration (TSA) issued a Notice of Proposed Rulemaking (NPRM), proposing to amend current aviation transportation security regulations to enhance the security of general aviation by expanding the scope of current requirements, and by adding new requirements for certain large aircraft operators and airports serving those aircraft. TSA also proposed that all aircraft operations, including corporate and private charter operations, with aircraft having a maximum certificated takeoff weight (MTOW) above 12,500 pounds (''large aircraft'') be required to adopt a large aircraft security program. TSA also proposed to require certain airports that serve large aircraft to adopt security programs. TSA is preparing a supplemental NPRM (SNPRM), which will include a comment period for public comments.

After considering comments received on the NPRM and meeting with stakeholders, TSA decided to revise the original proposal to tailor security requirements to the general aviation industry. TSA is considering alternatives to the following proposed provisions in the SNPRM: (1) The type of aircraft subject to TSA regulation; (2) compliance oversight; (3) watch list matching of passengers; (4) prohibited items; (5) scope of the background check requirements and the procedures used to implement the requirement; and (6) other issues. Additionally, in the SNPRM, TSA plans to propose security measures for foreign aircraft operators. U.S. and foreign operators would implement commensurate measures under the proposed rule.

Statement of Need:

This rule would enhance current security measures and might apply security measures currently in place for operators of certain types of aircraft to operators of other aircraft, including general aviation operators. While the focus of TSA's existing aviation security programs has been on air carriers and commercial operators, TSA is aware that general aviation aircraft of sufficient size and weight may inflict significant damage and loss of lives if they are hijacked and used as missiles. TSA has current regulations that apply to large aircraft operated by air carriers and commercial operators, including the twelve-five program, the partial program, and the private charter program. However, the current regulations in 49 CFR part 1544 do not cover all general aviation operations, such as those operated by corporations and individuals, and such operations do not have the features that are necessary to enhance security. Therefore, TSA is preparing a SNPRM which proposes to establish new security measures for operators, including general aviation operators, that are not covered under TSA's current regulations.

Summary of Legal Basis:

49 U.S.C. 114, 40113, 44903.

Alternatives:

DHS considered continuing to use voluntary guidance to secure general aviation, but determined that to ensure that each aircraft operator maintains an appropriate level of security, these security measures would need to be mandatory requirements.

Anticipated Cost and Benefits:

This proposed rule would yield benefits in the areas of security and quality governance. The rule would enhance security by expanding the mandatory use of security measures to certain operators of large aircraft that are not currently required to have a security plan. These measures would deter malicious individuals from perpetrating acts that might compromise transportation or national security by using large aircraft for these purposes.

As stated above, TSA is revising this proposed rule and preparing a SNPRM. Aircraft operators, passengers, and TSA would incur costs to comply with the requirements of the proposed rule. TSA is currently evaluating the costs of the revised rule which will be published in the SNPRM.

Risks:

This rulemaking addresses the national security risk of general aviation aircraft being used as a weapon or as a means to transport persons or weapons that could pose a threat to the United States.

Timetable:

Action	Date	FR Cite
NPRM	10/30/08	73 FR 64790
NPRM Comment Period End	12/29/08	
Notice—NPRM Comment Period Extended	11/25/08	73 FR 71590
NPRM Extended Comment Period End	02/27/09	
Notice—Public Meetings; Requests for Comments	12/28/08	73 FR 77045
Supplemental NPRM	06/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Local

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information:

Public Meetings held on: Jan. 6, 2009, at White Plains, NY; Jan. 8, 2009, at Atlanta, GA; Jan 16, 2009, at Chicago, IL; Jan. 23, 2009, at Burbank, CA; and Jan. 28, 2009, at Houston, TX.

Additional Comment Sessions held in Arlington, VA, on April 16, 2009, May 6, 2009, and June 15, 2009.

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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Related RIN: Related to 1652–AA03, Related to 1652–AA04

RIN: 1652–AA53

DHS—TSA

82. PUBLIC TRANSPORTATION AND PASSENGER RAILROADS—SECURITY TRAINING OF EMPLOYEES

Priority:

Other Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

49 USC 114; PL 110–53, secs 1408 and 1517

CFR Citation:

Not Yet Determined

Legal Deadline:

Final, Statutory, November 1, 2007, Interim Rule for public transportation agencies is due 90 days after date of enactment.

Final, Statutory, February 3, 2008, Rule for railroads is due 6 months after date of enactment.

Final, Statutory, August 3, 2008, Rule for public transportation agencies is due 1 year after date of enactment.

According to section 1408 of Public Law 110-53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266), interim final regulations for public transportation agencies are due 90 days after the date of enactment (Nov. 1, 2007), and final regulations are due 1 year after the date of enactment of this Act.According to section 1517 of the same Act, final regulations for railroads are due no later than 6 months after the date of enactment of this Act.

Abstract:

The Transportation Security Administration (TSA) will propose a new regulation to improve the security of public transportation and passenger railroads in accordance with the Implementing Recommendations of the 9/11 Commission Act of 2007. This rulemaking will propose general requirements for a public transportation security training program and a passenger railroad training program to prepare public transportation and passenger railroad employees, including frontline employees, for potential security threats and conditions.

Statement of Need:

A security training program for public transportation agencies and for passenger railroads is proposed to prepare public transportation and passenger railroad employees, including frontline employees, for potential security threats and conditions.

Summary of Legal Basis:

49 U.S.C. 114; sections 1408 and 1517 of Public Law 110-53, Implementing

Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266).

Alternatives:

TSA is required by statute to publish regulations requiring security programs for these operators. As part of its notice of proposed rulemaking, TSA will seek public comment on the numerous ways in which the final rule could carry out the requirements of the statute.

Anticipated Cost and Benefits:

TSA will estimate the costs that the public transportation agencies and passenger railroads covered by this proposed rule would incur following its implementation. These costs will include estimates for the following elements: 1) creating or modifying a security training program and submitting it to TSA; 2) training (initial and recurrent) all security-sensitive employees; 3) maintaining records of employee training; 4) being available for inspections; 5) providing information on security coordinators and alternates; and 6) reporting security concerns. TSA will also estimate the costs TSA itself would expect to incur with the implementation of this rule.

The primary benefit of the Security Training NPRM will be to enhance United States surface transportation security by reducing the vulnerability of public transportation agencies and passenger railroads to terrorist activity through the training of security-sensitive employees. TSA uses a break-even analysis to assess the trade-off between the beneficial effects of the Security Training NPRM and the costs of implementing the rulemaking. This break-even analysis uses scenarios extracted from the TSA Transportation Sector Security Risk Assessment (TSSRA) to determine the degree to which the Security Training NPRM must reduce the overall risk of a terrorist attack in order for the expected benefits of the NPRM to justify the estimated costs. For its analyses, TSA uses scenarios with varying levels of risk, but only details the consequence estimates. To maintain consistency, TSA developed the analyses with a method similar to that used for the break-even analyses conducted in earlier DHS rules.

After estimating the total consequence of each scenario by monetizing lives lost, injuries incurred, capital replacement and clean-up, and lost revenue, TSA will use this figure and the annualized cost of the NPRM for public transportation and passenger rail to calculate a breakeven annual likelihood of attack.

Risks:

The Department of Homeland Security aims to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to terrorism. By providing for security training for personnel, TSA intends in this rulemaking to reduce the risk of a terrorist attack on this transportation sector.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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Related RIN: Related to 1652–AA57, Related to 1652–AA59

RIN: 1652–AA55

DHS—TSA

83. FREIGHT RAILROADS—SECURITY TRAINING OF EMPLOYEES

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

49 USC 114; PL 110–53, sec 1517

CFR Citation:

Not Yet Determined

Legal Deadline:

Final, Statutory, February 3, 2008, Rule is due 6 months after date of enactment.

According to section 1517 of Public Law 110-53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266), TSA must issue a regulation no later than 6 months after the date of enactment of this Act.

Abstract:

The Transportation Security Administration (TSA) will propose new regulations to improve the security of freight railroads in accordance with the Implementing Recommendations of the 9/11 Commission Act of 2007. The rulemaking will propose general requirements for a security training program to prepare freight railroad employees, including frontline employees, for potential security threats and conditions. The regulations will take into consideration any current security training requirements or best practices.

Statement of Need:

The rulemaking will propose general requirements for a security training program to prepare freight railroad employees, including frontline employees, for potential security threats and conditions.

Summary of Legal Basis:

49 U.S.C. 114; section 1517 of Public Law 110-53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266).

Alternatives:

TSA is required by statute to publish regulations requiring security programs for these operators. As part of its notice of proposed rulemaking, TSA will seek public comment on the numerous ways in which the final rule could carry out the requirements of the statute.

Anticipated Cost and Benefits:

TSA will estimate the costs that the freight rail systems covered by this proposed rule would incur following its implementation. These costs will include estimates for the following elements: 1) Creating or modifying a security training program and submitting it to TSA; 2) training (initial and recurrent) all security-sensitive employees; 3) maintaining records of employee training; 4) being available for inspections; 5) providing information on security coordinators and alternates; and 6) reporting security concerns. TSA will also estimate the costs TSA itself would expect to incur with the implementation of this rule.

The primary benefit of the Security Training NPRM will be to enhance United States surface transportation security by reducing the vulnerability of freight railroad systems to terrorist activity through the training of security-sensitive employees. TSA uses a break-even analysis to assess the trade-off between the beneficial effects of the Security Training NPRM and the costs of implementing the rulemaking. This break-even analysis uses scenarios extracted from the TSA Transportation Sector Security Risk Assessment (TSSRA) to determine the degree to which the Security Training NPRM must reduce the overall risk of a terrorist attack in order for the expected benefits of the NPRM to justify the estimated costs. For its analyses, TSA uses scenarios with varying levels of risk, but only details the consequence estimates. To maintain consistency, TSA developed the analyses with a method similar to that used for the break-even analyses conducted in earlier DHS rules.

After estimating the consequence of each scenario by monetizing lives lost, injuries incurred, capital replacement and clean-up, and lost revenue, TSA will use this figure and the annualized cost of the NPRM for freight rail to calculate a breakeven annual likelihood of attack.

Risks:

The Department of Homeland Security aims to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to terrorism. By providing for security training for personnel, TSA intends in this rulemaking to reduce the risk of a terrorist attack on this transportation sector.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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Related RIN: Related to 1652–AA55, Related to 1652–AA59

RIN: 1652–AA57

DHS—TSA

84. OVER–THE–ROAD BUSES—SECURITY TRAINING OF EMPLOYEES

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

49 USC 114; PL 110–53, sec 1534

CFR Citation:

Not Yet Determined

Legal Deadline:

Final, Statutory, February 3, 2008, Rule due 6 months after date of enactment.

According to section 1534 of Public Law 110-53, Implementing

Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007); 121 Stat. 266), TSA must issue a regulation no later than 6 months after date of enactment of this Act.

Abstract:

The Transportation Security Administration (TSA) will propose new regulations to improve the security of over-the-road buses in accordance with the Implementing Recommendations of the 9/11 Commission Act of 2007. The rulemaking will propose an over-the-road bus security training program to prepare over-the-road bus frontline employees for potential security threats and conditions. The regulations will take into consideration any current security training requirements or best practices.

Statement of Need:

The rulemaking will propose an over-the-road bus security training program to prepare over-the-road bus frontline employees for potential security threats and conditions.

Summary of Legal Basis:

49 U.S.C. 114; section 1534 of Public Law 110-53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266).

Alternatives:

TSA is required by statute to publish regulations requiring security programs for these operators. As part of its notice of proposed rulemaking, TSA will seek public comment on the numerous ways in which the final rule could carry out the requirements of the statute.

Anticipated Cost and Benefits:

TSA will estimate the costs that the commercial over-the-road bus (OTRB) entities covered by this proposed rule would incur following its implementation. These costs will include estimates for the following elements: 1) Creating or modifying a security training program and submitting it to TSA; 2) training (initial and recurrent) all security-sensitive employees; 3) maintaining records of employee training; 4) being available for inspections; 5) providing information on security coordinators and alternates; and 6) reporting security concerns. TSA will also estimate the costs TSA itself would expect to incur with the implementation of this rule.

The primary benefit of the Security Training NPRM will be to enhance United States surface transportation security by reducing the vulnerability of commercial OTRB operators to terrorist activity through the training of security-sensitive employees. TSA uses a break-even analysis to assess the trade-off between the beneficial effects of the Security Training NPRM and the costs of implementing the rulemaking. This break-even analysis uses scenarios extracted from the TSA Transportation Sector Security Risk Assessment (TSSRA) to determine the degree to which the Security Training NPRM must reduce the overall risk of a terrorist attack in order for the expected benefits of the NPRM to justify the estimated costs. For its analyses, TSA uses scenarios with varying levels of risk, but only details the consequence estimates. To maintain consistency, TSA developed the analyses with a method similar to that used for the break-even analyses conducted in earlier DHS rules.

After estimating the consequence of each scenario by monetizing lives lost, injuries incurred, capital replacement and clean-up, and lost revenue, TSA will use this figure and the annualized cost of the NPRM for OTRB operators to calculate a breakeven annual likelihood of attack.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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Related RIN: Related to 1652–AA55, Related to 1652–AA57

RIN: 1652–AA59

DHS—TSA

FINAL RULE STAGE

85. AIRCRAFT REPAIR STATION SECURITY

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

49 USC 114; 49 USC 44924

CFR Citation:

49 CFR 1554

Legal Deadline:

Final, Statutory, August 8, 2004, Rule within 240 days of the date of enactment of Vision 100.

Final, Statutory, August 3, 2008, Rule within 1 year after the date of enactment of 9/11 Commission Act.

Section 611(b)(1) of Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108-176; Dec. 12, 2003; 117 Stat. 2490), codified at 49 U.S.C. 44924, requires TSA issue ''final regulations to ensure the security of foreign and domestic aircraft repair stations.'' Section 1616 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110—531; Aug. 3, 2007; 21 Stat. 266) requires TSA issue a final rule on foreign repair station security.

Abstract:

The Transportation Security Administration (TSA) proposed to add a new regulation to improve the security of domestic and foreign aircraft repair stations, as required by the section 611 of Vision 100—Century of Aviation Reauthorization Act and section 1616 of the 9/11 Commission Act of 2007. The regulation proposed general requirements for security programs to be adopted and implemented by repair stations certificated by the Federal Aviation Administration (FAA). A notice of proposed rulemaking (NPRM) was published in the Federal Register on November 18, 2009, requesting public comments to be submitted by January 19, 2010. The comment period was extended to February 19, 2010, on request of the stakeholders to allow the aviation industry and other interested entities and individuals additional time to complete their comments.

Statement of Need:

The Transportation Security Administration (TSA) is proposing regulations to improve the security of domestic and foreign aircraft repair stations. The NPRM proposed to require repair stations that are certificated by the Federal Aviation Administration to adopt and carry out a security program. The proposal will codify the scope of TSA's existing inspection program. The proposal also provides procedures for repair stations to seek review of any TSA determination that security measures are deficient.

Summary of Legal Basis:

Section 611(b)(1) of Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108-176; Dec. 12, 2003; 117 Stat. 2490), codified at 49 U.S.C. 44924, requires TSA to issue ''final regulations to ensure the security of foreign and domestic aircraft repair stations'' within 240 days from date of enactment of Vision 100. Section 1616 of Public Law 110-53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266) requires that the FAA may not certify any foreign repair stations if the regulations are not

issued within 1 year after the date of enactment of the 9/11 Commission Act unless the repair station was previously certificated or is in the process of certification.

Alternatives:

TSA is required by statute to publish regulations requiring security programs for aircraft repair stations. As part of its notice of proposed rulemaking, TSA sought public comment on the numerous alternative ways in which the final rule could carry out the requirements of the statute.

Anticipated Cost and Benefits:

TSA anticipates costs to aircraft repair stations mainly related to the establishment of security programs, which may include adding such measures as access controls, a personnel identification system, security awareness training, the designation of a security coordinator, employee background verification, and contingency plan. The total 10-year undiscounted cost of the program is $344 million. The discounted at 7 percent, 10-year cost of the program is $241 million. Security coordinator costs of $132 million and training costs of $132 million represent the largest portions of the program.

A major line of defense against an aviation-related terrorist act is the prevention of explosives, weapons, and/or incendiary devices from getting on board a plane. To date, efforts have been primarily related to inspection of baggage, passengers, and cargo, and security measures at airports that serve air carriers. With this rule, attention is given to aircraft that are located at repair stations, and to aircraft parts that are at repair stations, themselves to reduce the likelihood of an attack against aviation and the country. Since repair station personnel have direct access to all parts of an aircraft, the potential exists for a terrorist to seek to commandeer or compromise an aircraft when the aircraft is at one of these facilities. Moreover, as TSA tightens security in other areas of aviation, repair stations increasingly may become attractive targets for terrorist organizations attempting to evade aviation security protections currently in place.

Risks:

The Department of Homeland Security aims to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to terrorism. By requiring security programs for aircraft repair stations, TSA will focus on preventing unauthorized access to repair work and to aircraft to prevent sabotage or hijacking.

Timetable:

Action	Date	FR Cite
Notice—Public Meeting; Request for Comments	02/24/04	69 FR 8357
Report to Congress	08/24/04	
NPRM	11/18/09	74 FR 59873
NPRM Comment Period End	01/19/10	
NPRM Comment Period Extended	12/29/09	74 FR 68774
NPRM Extended Comment Period End	02/19/10	
Final Rule	05/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

URL For More Information:

www.regulations.gov

URL For Public Comments:

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RIN: 1652–AA38

DHS—TSA

86. AIR CARGO SCREENING

Priority:

Other Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

PL 110–53, sec 1602; 49 USC 114; 49 USC 40113; 49 USC 44901 to 44905; 49 USC 44913 to 44914; 49 USC 44916; 49 USC 44935 to 44936; 49 USC 46105

CFR Citation:

49 CFR 1520; 49 CFR 1522; 49 CFR 1540; 49 CFR 1544; 49 CFR 1548; 49 CFR 1549

Legal Deadline:

Other, Statutory, February 3, 2009, Screen 50 percent of cargo on passenger aircraft.

Other, Statutory, August 3, 2010, Screen 100 percent of cargo on passenger aircraft.

Final, Statutory, November 3, 2010, 1 year after effective date of the interim final rule.

Section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110-53, 121 Stat. 266, 478, Aug. 3, 2007) requires that the Secretary of Homeland Security establish a system to screen 50 percent of cargo on passenger aircraft NLT 18 months after the date of enactment and 100 percent of such cargo NLT 3 years after the date of enactment. The 9/11 Act also requires that TSA issue a final rule NLT 1 year after the effective date of the interim final rule (Nov. 2010).

Abstract:

On September 16, 2009, the Transportation Security Administration (TSA) issued an Interim Final Rule (IFR) that established the Certified Cargo Screening Program (CCSP) that certifies shippers, manufacturers, and other entities to screen air cargo intended for transport on a passenger aircraft. This is the primary means through which TSA will meet the requirements of section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007 that mandates that 100 percent of air cargo transported on passenger aircraft, operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation, be screened by August 2010, to ensure the security of all such passenger aircraft carrying cargo.

Under this rulemaking, each certified cargo screening facility (CCSF) and its employees and authorized representatives that will be screening cargo must successfully complete a security threat assessment. The CCSF must also submit to an assessment of their security measures by TSA-approved validators, screen cargo using TSA-approved methods, and initiate strict chain of custody measures to ensure the security of the cargo throughout the supply chain prior to tendering it for transport on passenger aircraft.

TSA will issue a final rule responding to public comments from the IFR.

Statement of Need:

TSA is establishing a system to screen 100 percent of cargo transported on passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation to ensure the security of all such passenger aircraft carrying cargo.

The system shall require, at a minimum, that equipment, technology, procedures, personnel, or other methods approved by the Administrator of TSA, used to screen cargo carried on passenger aircraft, provide a level of security commensurate with the level of security for the screening of passenger checked baggage.

Summary of Legal Basis:

49 U.S.C. 114; section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110-53, 121 Stat. 266, 478, 10/3/2007), codified at 49 U.S.C. 44901(g).

Alternatives:

The Interim Final Rule (IFR) states that as an alternative to establishing the CCSP, TSA considered meeting the statutory requirements by having aircraft operators screen cargo intended for transportation on passenger aircraft—that is, continuing the current cargo screening program but expanding it to 85 percent of air cargo on passenger aircraft, with the remaining 15 percent assumed to be shipped via other modes. Under this alternative, the cost drivers are screening equipment, personnel for screening, training of personnel, and delays. Delays are the largest cost component, totaling $7.0 billion over 10 years, undiscounted. In summary,

the undiscounted 10 year cost of the alternative is $11.1 billion, and discounted at 7 percent, the cost is $7.7 billion.

Anticipated Cost and Benefits:

TSA estimates the cost of the rule will be $1.9 billion (discounted at 7 percent) over 10 years. TSA analyzed the alternative of not establishing the Certified Cargo Screening Program (CCSP) and, instead, having aircraft operators and air carriers perform screening of all cargo transported on passenger aircraft. Absent the CCSP, the estimated cost to aircraft operators and air carriers is $7.7 billion (discounted at 7 percent) over 10 years.

The bulk of the costs for both the CCSP and the alternative are attributed to personnel and the impact of cargo delays resulting from the addition of a new operational process.

The benefits of the FR are five-fold. First, passenger air carriers will be more firmly protected against an act of terrorism or other malicious behaviors by the screening of 100 percent of cargo

shipped on passenger aircraft. Second, allowing the screening process to occur throughout the supply chain via the Certified Cargo Screening

Program will reduce potential bottlenecks and delays at the airports. Third, the FR will allow market forces to identify the most efficient venue for screening along the supply chain, as entities upstream from the aircraft operator may apply to become CCSFs and screen cargo. Fourth, the CCSP enables members to screen

valuable cargo earlier in the supply chain and avoid any potentially invasive screening that may occur at the aircraft operator level. Finally, validation firms will perform assessments of the entities that become CCSFs, allowing TSA to set priorities for compliance inspections.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/16/09	74 FR 47672
Interim Final Rule Comment Period End	11/16/09	
Interim Final Rule Effective	11/16/09	
Final Rule	03/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

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RIN: 1652–AA64

DHS—U.S. Immigration and Customs Enforcement (USICE)

PROPOSED RULE STAGE

87. CONTINUED DETENTION OF ALIENS SUBJECT TO FINAL ORDERS OF REMOVAL

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

8 USC 1103; 8 USC 1223; 8 USC 1227; 8 USC 1231; 8 USC 1253

CFR Citation:

8 CFR 241

Legal Deadline:

None

Abstract:

This notice of proposed rulemaking (NPRM) is proposing to amend the Department of Homeland Security (DHS) regulatory provisions for custody determinations for aliens in immigration detention who are subject to an administratively final order of removal. The proposed amendment would add a paragraph to 8 CFR 241.4(g) providing that U.S. Immigration and Customs Enforcement (ICE) shall have a reasonable period of time to effectuate an alien's removal where the alien is not in immigration custody when the order of removal becomes administratively final. The proposed rule would also clarify the removal period time frame afforded to the agency following an alien's compliance with his or her obligations regarding removal subsequent to a period of obstruction or failure to cooperate. The rule proposes to make conforming changes to 241.13(b)(2). Lastly, the rule proposes to add a paragraph to 8 CFR 241.13(b)(3) to make clear that aliens certified by the Secretary under section 236A of the Immigration and Nationality Act, 8 U.S.C. 1226a, are not subject to the provisions of 8 CFR 241.13, in accordance with the separate detention standard provided under the Act.

Statement of Need:

The companion final rule will improve the post order custody review process in the final rule related to the Detention of Aliens Subject to Final Orders of Removal in light of the U.S. Supreme Court's decisions in Zadvydas v. Davis, 533 U.S. 678 (2001), Clark v. Martinez, 543 U.S. 371 (2005) and conforming changes as required by the enactment of the Homeland Security Act of 2002 (HSA). This notice of proposed rulemaking (NPRM) will propose to amend 8 CFR 241.1(g) to provide for a new 90-day removal period once an alien comes into compliance with his or her obligation to make timely application in good faith for travel or other documents and not conspire or act to prevent removal.

Anticipated Cost and Benefits:

This proposed rule will clarify the regulatory provisions concerning the removal of aliens that are subject to an administratively final order of removal. DHS does not anticipate there will be cost impacts to the public as a result of the rule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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Related RIN: Related to 1653–AA13

RIN: 1653–AA60

DHS—USICE

FINAL RULE STAGE

88. CONTINUED DETENTION OF ALIENS SUBJECT TO FINAL ORDERS OF REMOVAL

Priority:

Other Significant

Legal Authority:

8 USC 1103; 8 USC 1223; 8 USC 1227; 8 USC 1231; 8 USC 1253; . . .

CFR Citation:

8 CFR 241

Legal Deadline:

None

Abstract:

The U.S. Department of Homeland Security is finalizing, with amendments, the interim rule that was published on November 14, 2001, by the former Immigration and Naturalization Service (Service). The interim rule included procedures for conducting custody determinations in light of the U.S. Supreme Court's decision in Zadvydas v. Davis, 533 U.S. 678 (2001), which held that the detention period of certain aliens who are subject to a final administrative order of removal is limited under section 241(a)(6) of the Immigration and Nationality Act (Act) to the period reasonably necessary to effect their removal. The interim rule amended section 241.4 of title 8, Code of Federal Regulations (CFR), in addition to creating two new sections: 8 CFR 241.13 (establishing custody review procedures based on the significant likelihood of the alien's removal in the reasonably foreseeable future) and 241.14 (establishing custody review procedures for special circumstances cases). Subsequently, in the case of Clark v. Martinez, 543 U.S. 371 (2005), the Supreme Court clarified a question left open in Zadvydas, and held that section 241(a)(6) of the Act applies equally to all aliens described in that section. This rule amends the interim rule to conform to the requirements of Martinez. Further, the procedures for custody determinations for post-removal period aliens who are subject to an administratively final order of removal, and who have not been released from detention or repatriated, have been revised in response to comments received and experience gained from administration of the interim rule published in 2001. This final rule also makes conforming changes as required by the enactment of the Homeland Security Act of 2002 (HSA). Additionally, certain portions of the final rule were determined to require public comment and, for this reason, have been developed into a separate/companion notice of proposed rulemaking; RIN 1653-AA60.

Statement of Need:

This rule will improve the post order custody review process in the final rule related to the Detention of Aliens Subject to Final Orders of Removal in light of the U.S. Supreme Court's decisions in Zadvydas v. Davis, 533 U.S. 678 (2001), Clark v. Martinez, 543 U.S. 371 (2005) and conforming changes as required by the enactment of the Homeland Security Act of 2002 (HSA). A companion notice of proposed rulemaking (NPRM) will propose to amend 8 CFR 241.1(g) to provide for a new 90-day removal period once an alien comes into compliance with his or her obligation to make timely application in good faith for travel or other documents and not conspire or act to prevent removal.

Anticipated Cost and Benefits:

The changes are administrative and procedural in nature, and will not result in cost impacts to the public. The benefits of making these changes to the regulations will allow for expedited review of the post-order custody review process.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/14/01	66 FR 56967
Interim Final Rule Comment Period End	01/14/02	
Final Action	03/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

INS No. 2156-01

Transferred from RIN 1115-AG29

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RIN: 1653–AA13

DHS—USICE

89. EXTENDING PERIOD FOR OPTIONAL PRACTICAL TRAINING BY 17 MONTHS FOR F–1 NONIMMIGRANT STUDENTS WITH STEM DEGREES AND EXPANDING THE CAP–GAP RELIEF FOR ALL F–1 STUDENTS WITH PENDING H–1B PETITIONS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

8 USC 1101 to 1103; 8 USC 1182; 8 USC 1184 to 1187; 8 USC 1221; 8 USC 1281 and 1282; 8 USC 1301 to 1305

CFR Citation:

8 CFR 214

Legal Deadline:

None

Abstract:

Currently, foreign students in F-1 nonimmigrant status who have been enrolled on a full-time basis for at least one full academic year in a college, university, conservatory, or seminary certified by U.S. Immigration and Custom Enforcement's (ICE) Student and Exchange Visitor Program (SEVP) are eligible for 12 months of optional practical training (OPT) to work for a

U.S. employer in a job directly related to the student's major area of study. The maximum period of OPT is 29 months for F-1 students who have completed a science, technology, engineering, or mathematics (STEM) degree and accept employment with employers enrolled in U.S. Citizenship and Immigration Services' (USCIS') E-Verify employment verification program. Employers of F-1 students with an extension of post-completion OPT authorization must report to the student's designated school official (DSO) within 48 hours after the OPT student has been terminated from, or otherwise leaves, his or her employment with that employer prior to end of the authorized period of OPT.

The final rule will respond to public comments and may make adjustments to the regulations.

Statement of Need:

ICE will improve SEVP processes by publishing the Final Optional Practical Training (OPT) rule, which will respond to comments on the OPT interim final rule (IFR). The IFR increased the maximum period of OPT from 12 months to 29 months for nonimmigrant students who have completed a science, technology, engineering, or mathematics (STEM) degree and who accept employment with employers who participate in the U.S. Citizenship and Immigration Services' (USCIS') E-Verify employment verification program.

Alternatives:

DHS is considering several alternatives to the 17-month extension of OPT and cap-gap extension, ranging from taking no action to further extension for a larger populace. The interim final rule addressed an immediate competitive disadvantage faced by U.S. industries and ameliorated some of the adverse impacts on the U.S. economy. DHS continues to evaluate both quantitative and qualitative alternatives.

Anticipated Cost and Benefits:

Based on an estimated 12,000 students per year that will receive an OPT extension and an estimated 5,300 employers that will need to enroll in E-verify, DHS projects that this rule will cost students approximately $1.49 million per year in additional information collection burdens, $4,080,000 in fees, and cost employers $1,240,000 to enroll in E-Verify and $168,540 per year thereafter to verify the status of new hires. However, this rule will increase the availability of qualified workers in science, technology, engineering, and mathematical fields; reduce delays that place U.S. employers at a disadvantage when recruiting foreign job candidates, thereby improving strategic and resource planning capabilities; increase the quality of life for participating students, and increase the integrity of the student visa program.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/08/08	73 FR 18944
Interim Final Rule Comment Period End	06/09/08	
Final Rule	03/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

URL For More Information:

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RIN: 1653–AA56

DHS—Federal Emergency Management Agency (FEMA)

PROPOSED RULE STAGE

90. UPDATE OF FEMA'S PUBLIC ASSISTANCE REGULATIONS

Priority:

Other Significant

Legal Authority:

42 USC 5121 to 5207

CFR Citation:

44 CFR 206

Legal Deadline:

None

Abstract:

This proposed rule would revise the Federal Emergency Management Agency's Public Assistance program regulations. Many of these changes reflect amendments made to the Robert T. Stafford Disaster Relief and Emergency Assistance Act by the Post-Katrina Emergency Management Reform Act of 2006 and the Security and Accountability For Every Port Act of 2006. The proposed rule also proposes to reflect lessons learned from recent events, and propose further substantive and non-substantive clarifications and corrections to improve upon the Public Assistance regulations. This proposed rule is intended to improve the efficiency and consistency of the Public Assistance program, as well as implement new statutory authority by expanding Federal assistance, improving the Project Worksheet process, empowering grantees, and improving State Administrative Plans.

Statement of Need:

The proposed changes implement new statutory authorities and incorporate necessary clarifications and corrections to streamline and improve the Public Assistance program. Portions of FEMA's Public Assistance regulations have become out of date and do not implement all of FEMA's available statutory authorities. The current regulations inhibit FEMA's ability to clearly articulate its regulatory requirements, and the Public Assistance applicants' understanding of the program. The proposed changes are intended to improve the efficiency and consistency of the Public Assistance program.

Summary of Legal Basis:

The legal authority for the changes in this proposed rule is contained in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 to 5207, as amended by the Post-Katrina Emergency Management Reform Act of 2006, 6 U.S.C. 701 et seq, the Security and Accountability For Every Port Act of 2006, 6 U.S.C. 901 note, the Local Community Recovery Act of 2006, Public Law 109-218, 120 Stat. 333, and the Pets Evacuation and Transportation Standards Act of 2006, Public Law 109-308, 120 Stat. 1725.

Alternatives:

One alternative is to revise some of the current regulatory requirements (such as application deadlines) in addition to implementing the amendments made to the Stafford Act by (1) the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA), Public Law 109-295, 120 Stat. 1394; 2) the Security and Accountability For Every Port Act of 2006 (SAFE Port Act), Public Law 109-

347, 120 Stat. 1884; 3) the Local Community Recovery Act of 2006, Public Law 109-218, 120 Stat. 333; and 4) the Pets Evacuation and Transportation Standards Act of 2006 (PETS Act), Public Law 109-308, 120 Stat. 1725. Another alternative is to expand funding by expanding force account labor cost eligibility to Category A Projects (debris removal).

Anticipated Cost and Benefits:

The proposed rule is expected to have economic impacts on the public, grantees, subgrantees, and FEMA. The expected benefits are a reduction in property damages, societal losses, and losses to local businesses, as well as improved efficiency and consistency of the Public Assistance program. The total economic impact of the proposed rule is estimated to be approximately $50 million per year (in 2010 dollars). The primary economic impact of the proposed rule is the additional transfer of funding from FEMA through the Public Assistance program to grantees and subgrantees that is effectuated by this rulemaking. The proposed rule will also incur additional administrative costs to grantees and FEMA, which is estimated to be approximately $230,000, and $20,000 per year, respectively. However, most of the proposed changes are not expected to result in any additional cost to FEMA or any changes in the eligibility of assistance.

Risks:

This action does not adversely affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal, Local, State, Tribal

Federalism:

This action may have federalism implications as defined in EO 13132.

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RIN: 1660–AA51

BILLING CODE 9110–9B–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Statement of Regulatory Priorities

The Regulatory Plan for the Department of Housing and Urban Development (HUD) for Fiscal Year (FY) 2011 highlights the most significant regulatory initiatives that HUD seeks to complete during the upcoming fiscal year. As the Federal agency that serves as the Nation's housing agency, committed to addressing the housing needs of Americans, promoting economic and community development, and enforcing the Nation's fair housing laws, HUD plays a significant role in the lives of families and communities throughout America. Through its programs, HUD works to strengthen the housing market and protect consumers; meet the need for quality affordable rental homes; utilize housing as a platform for improving quality of life; and build inclusive and sustainable communities free from discrimination.

The state of America's housing market plays a major role in shaping the well-being of individuals and families, the stability of neighborhoods, and the strength of America's economy. That is why the recent downturn of the housing market—with high rates of foreclosure, increases in vacant properties, and plummeting home values—has been so devastating for families and communities alike. During this most recent downturn in the housing market, millions of families have lost their homes, and at least 3 million homeowners remain at risk of losing their homes. The effect of the crisis on neighborhoods has been no less dramatic. The high rate of foreclosures has undermined the stability of many neighborhoods across America.

In 2009, HUD took a prominent role in the Administration's Federal recovery strategy by helping American families keep their homes and stabilizing neighborhoods hard hit by foreclosure. In the midst of a credit crunch, HUD's Federal Housing Administration (FHA) assisted nearly 1.95 million households in fiscal year 2009. HUD led efforts in foreclosure mitigation, homeownership counseling, and curbing mortgage abuse and lending discrimination. Through funds awarded to HUD under the American Recovery and Reinvestment Act, HUD provided grant funds to State and local governments and nonprofit organizations to stabilize communities and neighborhoods negatively affected by foreclosure. HUD's efforts to help homeowners struggling to keep their homes and neighborhoods in distress did not abate in 2010. In 2010, HUD introduced its FHA Short Refinance option, which enables lenders to provide additional refinancing options to homeowners who owe more on their mortgages than their homes are worth. Through additional funding provided by Congress, HUD's Neighborhood Stabilization program continues into 2010 to help neighborhoods that have suffered from foreclosures.

Although homeownership historically has been the primary vehicle by which American families have built wealth, the recent crisis has shown that homeownership at any cost is fraught with peril. Americans need sustainable homeownership in which the costs are appropriate for a family's financial situation and the risks associated with homeownership are understood and manageable. In this regard, Secretary Donovan has directed that HUD must have a balanced, comprehensive national housing policy, one that supports and preserves sustainable homeownership, but also provides affordable rental housing, with a focus on preservation of developments that are integral to sustainability, such as those adjacent to significant transportation options, or with great access to jobs. Additionally, increasing affordable rental housing provides a means of addressing homelessness.

While HUD continues with programs to stem foreclosures and stabilize neighborhoods, with signs suggesting that the Nation is on the road to recovery, HUD is better able to direct efforts to implement the Secretary's balanced comprehensive national housing policy. HUD's regulatory plan for FY 2011 reflects one step in achieving this balanced, comprehensive national housing policy and is based on major legislation recently enacted that supports such a policy.

Priority: Providing Sustainable Homeownership Through Consumer Education

Consumer protections help prevent borrowers from falling victim to fraudulent loan products and aggressive marketing techniques. Such products and techniques contributed to the current housing crisis. One way to assist consumers from falling victims to fraudulent loan products is to ensure that they fully understand the home purchase process and the benefits but also the ongoing costs of homeownership. Such consumer education over the years has been increasingly provided by housing counselors, individuals trained and experienced in assisting individuals with mortgage-related issues, personal finances, and how to avoid default and foreclosure. Through HUD-funded and HUD-approved housing counseling agencies, HUD helps ensure that prospective and current homeowners have access to needed counseling services, as well as for those who rent.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203) signed into law by President Obama on July 21, 2010, recognizes the importance that housing counseling plays in protecting consumers from mortgage fraud and provides for the establishment of an Office of Housing Counseling within HUD. The new office's responsibilities include ensuring that homeownership counseling addresses the entire process of homeownership, including the decision to purchase a home, the selection and purchase of a home, issues arising during or affecting the period of ownership of a home (including refinancing, default and foreclosure, and other financial decisions), and the sale or other disposition of a home. The new office will also oversee that HUD-approved counseling agencies provide counseling on the benefits and costs of renting. HUD's new Office of Housing Counseling is charged with several other duties and responsibilities, and HUD's FY 2011 regulatory plan includes the rulemaking that will provide the regulatory foundation for the new Office of Housing Counseling to carry out all of its important duties and responsibilities.

Regulatory Action: Housing Counseling—New Program Requirements

HUD will issue a rule that reflects the authority of HUD's new Office of Housing Counseling. The Dodd-Frank Wall Street Reform and Consumer Protection Act provides that this office will establish, coordinate, and administer all regulations, requirements, standards, and performance measures under programs and laws administered by HUD that relate to housing counseling, homeownership counseling (including maintenance of homes), mortgage-related counseling (including home equity conversion mortgages and credit protection options to avoid foreclosure), and rental housing counseling, including the requirements, standards, and performance measures relating to housing counseling. The new law also directs HUD, through this office, to among other things, establish standards for the eligibility of organizations (including governmental

and nonprofit organizations) to receive HUD housing counseling grants; establish standards for materials and forms to be used, as appropriate, by organizations providing homeownership counseling services; provide for the certification of various computer software programs for consumers to use in evaluating different residential mortgage loan proposals; and ensure that counselors receiving funding under HUD's housing counseling grant program are properly certified, in accordance with standards established by HUD.

Priority: Improving Energy Efficiency in Housing

Despite significant improvements in housing quality in recent decades, much of the Nation's housing stock is not energy efficient. Increasing the Nation's affordable housing stock must also include establishing or improving energy efficiency in such housing. HUD initiated new energy efficiency programs through the American Recovery and Reinvestment Act of 2009 (Recovery Act). These included: A $250 million Green Retrofit Program for assisted multifamily buildings; $600 million for high performing energy retrofit and green projects in public housing; and additional formula and competitive programs that either contained incentives for energy efficiency and green, or could be utilized for that purpose. HUD estimates that up to 88,000 units may be retrofitted through these programs, for an estimated energy savings of $21 million.

While HUD's programs and initiatives under the Recovery Act focused on public and assisted multifamily housing, HUD's FY 2011 regulatory plan focuses on establishing a regulatory foundation to improve energy efficiency in FHA's title I Property Improvement Loan Insurance program (Title I program). Through the Title I program, FHA makes it easier for consumers to obtain affordable home improvement loans by insuring loans made by private lenders to improve properties that meet certain requirements. Title I program loans may be used to finance permanent property improvements that protect or improve the basic livability or utility of the property. HUD's FY 2011 rulemaking for the Title I program will provide for qualified borrowers to obtain low cost loans for specified energy improvements.

Regulatory Action: Title I Energy Retrofit Property Improvement Loans

HUD's rule amending the Title I program to provide for low cost loans for energy improvements has its foundation in the Recovery through Retrofit Report (Report), issued on October 19, 2009, by the Vice President and the White House Middle Class Task Force. The Report builds on the foundation laid out in the Recovery Act to expand green job opportunities in the United States and boost energy savings for middle class Americans by retrofitting homes for energy efficiency. The Report recognizes that making American homes and buildings more energy efficient presents an unprecedented opportunity for communities throughout the country. Home retrofits can potentially help people earn money, as home retrofit workers, while also helping them save money, by lowering their utility bills. The regulatory amendments to be addressed by this rulemaking will take into consideration the experience of HUD, Title I lenders, and consumers participating in HUD's Title I program Energy Retrofit Loan Demonstration to be launched late 2010. The demonstration will allow HUD to assess the success of the proposed modifications to its existing Title I program and address any programmatic concerns before undertaking final codification of regulatory amendments.

Aggregate Costs and Benefits

Executive Order 12866, as amended, requires the agency to provide its best estimate of the combined aggregate costs and benefits of all regulations included in the agency's regulatory plan that will be made effective in calendar year 2011. HUD expects that the neither the total economic costs nor the total efficiency gains will exceed $100 million.

HUD—Office of Housing (OH)

PROPOSED RULE STAGE

91. ● TITLE I ENERGY RETROFIT PROPERTY IMPROVEMENT LOANS (FR–5445)

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

12 USC 1703; 42 USC 3535(d)

CFR Citation:

24 CFR 201

Legal Deadline:

None

Abstract:

This proposed rule would amend HUD's regulations for the title I Property Improvement Loan Insurance program (Title I program) to better assist qualified borrowers obtain low-cost loans for specified energy improvements. Through the Title I program, FHA makes it easier for consumers to obtain affordable home improvement loans by insuring loans made by private lenders to improve properties that meet certain requirements. Title I program loans may be used to finance permanent property improvements that protect or improve the basic livability or utility of the property. The proposed rule is being issued in response to the Recovery through Retrofit Report (Report), issued on October 19, 2009, by the Vice President and the White House Middle Class Task Force. The Report builds on the foundation laid out in the American Recovery and Reinvestment Act (Pub. L. 111-5; approved February 17, 2009) to expand green job opportunities in the United States and boost energy savings for middle class Americans by retrofitting homes for energy efficiency. The Report recognizes that making American homes and buildings more energy efficient presents an unprecedented opportunity for communities throughout the country. Home retrofits can potentially help people earn money, as home retrofit workers, while also helping them save money, by lowering their utility bills. By encouraging nationwide weatherization of homes, workers of all skill levels will be trained, engaged, and will participate in ramping up a national home retrofit market.

The proposed regulatory amendments build upon the experience of HUD, title I lenders and consumers participating in the Department's Title I program Energy Retrofit Loan Demonstration. Before undertaking rulemaking to codify the regulatory amendments on a permanent, nationwide basis, HUD decided to conduct a demonstration involving a limited number of lenders and areas of the country. The demonstration will allow HUD to assess the success of the proposed modifications to the existing program and to address any programmatic concerns before authorizing its use throughout the country.

Statement of Need:

The Report identified several barriers that have prevented a self-sustaining retrofit market from forming. Among other barriers, the Report found that homeowners face high upfront costs and many are concerned that they will be prevented from recouping the value of their investment if they choose to sell their home. The upfront costs of home retrofit projects are often beyond the average homeowner's budget. The report found that the solution to the lack of home energy retrofit financing is to make such financing more accessible and more consumer friendly. The proposed regulatory amendments will help to address these needs by enabling qualified borrowers obtain title I low cost loans for energy-related home improvements.

Summary of Legal Basis:

The Title I program is authorized under title I, section 2, of the National Housing Act (12 U.S.C. 1703). Specifically, under section 2(a) of the National Housing Act, the Secretary of HUD is authorized to help homeowners finance alterations, repairs, and improvements in connection with existing structures or manufactured homes. HUD's implementing regulations are codified at 24 CFR part 201.

Alternatives:

The primary alternative HUD considered to amending the Title I regulations was use of the existing FHA Energy Efficient Mortgage (EEM) program. The FHA EEM program allows a borrower to finance and incremental amount on their first mortgage to invest in energy efficiency, with an additional appraisal or further credit qualification, provided that the benefit of projected energy savings exceed the cost of the improvements, as estimated by an energy audit, HUD ultimately determined that the EEM was not an optimal vehicle for achieving the energy innovation goals of this rule. First the FHA EEM is, by definition, a negative equity instrument, and negative equity is extremely problematic in the current housing market. Another problematic feature of the EEM program is that the financing may exceed the benefit from and useful life of the measures, and result in a total net cost to the consumer that does not represent the optimal use of funds.

Anticipated Cost and Benefits:

The aggregate net benefits are obtained by multiplying the individual net benefits by the expected number of loans and adding the expected social benefits of reduced energy consumption. As a base case, HUD assumes a consumer household with annual savings of $1000, a zero percent price growth and a 7 percent discount rate. The present value of a technical retrofit for this base case scenario is $11,400. Assuming a rebound effect of 30 percent yields a comfort benefit of $3,400 and energy savings of $8,000 per participant (the ''rebound effect'' refers to the fact that the reaction of the consumer to the energy-saving technology will not necessarily reduce energy consumption by what is technically possible). Approximately 24,000 loans are expected over two years. For the base case scenario, this would equal $41 million comfort benefits and $96 million in energy saving for each year of the program. The benefits of the FHA program may not equal the sum of the benefits of all retrofits financed through the program, but only reflect the benefits of the retrofits that would not have occurred without the program; however, the existence of significant market imperfections and the lack of affordable financing makes it reasonable to assume that a large proportion, if not all of the loans, will generate benefits. The cost of receiving the energy-savings is the upfront investment plus the costs of financing the investment. the cost per investment is thus equal to the size of the loan.

Risks:

This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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HUD—OH

92. ● HOUSING COUNSELING: NEW PROGRAM REQUIREMENTS (FR–5446)

Priority:

Other Significant

Legal Authority:

12 USC 1701x; 42 USC 3535(d)

CFR Citation:

24 CFR 214

Legal Deadline:

None

Abstract:

This proposed rule would amend HUD's regulations for the Housing Counseling program to address the new program requirements and certification requirements for HUD approved housing counselors as provided by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, approved July 21, 2010). The proposed rule would also reflect the authority and responsibility of HUD's new Office of Housing Counseling to coordinate and administer HUD's Housing Counseling program.

HUD's Housing Counseling program is authorized by section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x). Section 106 authorizes HUD to provide, make grants to, or contract with public or private organizations to provide a broad range of housing counseling services to homeowners and tenants to assist them in improving their housing conditions and in meeting the responsibilities of tenancy or homeownership. The regulations contained in this part prescribe the procedures and requirements by which the Housing Counseling program will be administered. These regulations apply to all agencies participating in HUD's Housing Counseling program.

The proposed regulatory amendments will implement the changes made to

section 106 of the Housing and Urban Development Act of 1968 by the Dodd-Frank Wall Street Reform and Consumer Protection Act, which include directing that HUD-approved housing counseling agencies provide counseling that addresses the entire process of homeownership and that HUD establish materials and forms to be used by HUD-approved housing counselors.

Statement of Need:

The rulemaking is needed because HUD's current regulations for the Housing Counseling program do not reflect the changes made to section 106 of section 106 of the Housing and Urban Development Act of 1968 by the Dodd-Frank Wall Street Reform. The changes enhance the choices and protections afforded borrowers participating in HUD's single family mortgage insurance programs.

Summary of Legal Basis:

The Housing Counseling program is authorized by section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x), as recently amended by subtitle D of title XIV of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Alternatives:

As noted, the purpose of this rule is to update HUD's regulations that do not reflect current statutory requirements. While certain statutory changes may be implemented through HUD's annual competitive allocation of fund for the Housing Counseling program provided by appropriations acts, the regulation nevertheless needs to be amended to reflect the program changed made by changes to the underlying statutory authority.

Anticipated Cost and Benefits:

The benefit of the proposed regulatory amendments will be to strengthen the protection of consumers, primarily those who are prospective homeowners but also current homeowners through the enhanced counseling requirements provided by the Dodd-Frank Wall Street Reform and Consumer Protection Act. The more comprehensive counseling services directed to be provided and the review of materials and forms by HUD designed to better educate consumers about homeownership are expected to produce homebuyers better educated about the homeownership process and less vulnerable to fraudulent mortgage practices. Costs are expected to minimal. The Dodd-Frank Wall Street Reform and Consumer Protection Act authorizes funding to help establish HUD's new Office of Housing Counseling and the additional functions to be carried out by this office. The Dodd-Frank Wall Street Reform and Consumer Protection Act also authorizes additional funding for the expansion of services to be carried out by HUD-approved counseling agencies.

Risks:

This rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Agency Contact:

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DEPARTMENT OF THE INTERIOR (DOI)

Statement of Regulatory Priorities

The Department of the Interior (DOI) is the principal Federal steward of our Nation's public lands and resources, including many of our cultural treasures. We serve as trustee to Native Americans and Alaska natives and are responsible for relations with the island territories under United States jurisdiction. We manage more than 500 million acres of Federal lands, including 392 park units, 548 wildlife refuges, and approximately 1.7 billion of submerged offshore acres. This includes some of the highest quality renewable energy resources available to help the United States achieve the President's goal of energy independence, including geothermal, solar, and wind.

The Department protects and recovers endangered species; protects natural, historic, and cultural resources; manages water projects that are a life line and economic engine for many communities in the West; manages forests and fights wildfires; manages Federal energy resources; educates children in Indian schools; and provides recreational opportunities for over 400 million visitors annually in our national parks, public lands, national wildlife refuges, and recreation areas.

We will continue to review and update our regulations and policies to ensure that they are effective and efficient, and that they promote accountability and sustainability. We will emphasize regulations and policies that:

- Promote environmentally responsible, safe, and balanced development of renewable and conventional energy on our public lands and the Outer Continental Shelf;
- Use the best available science to ensure that public resources are protected, conserved, and used wisely;
- Adopt performance approaches focused on achieving cost-effective, timely results;
- Improve the nation-to-nation relationship with American Indian tribes;
- Promote partnerships with States, tribes, local governments, other groups, and individuals to achieve common goals;
- Promote transparency, fairness, accountability, and the highest ethical standards while maintaining performance goals.

Major Regulatory Areas

DOI bureaus implement legislatively mandated programs through their regulations. Some of these regulatory activities include:

- Developing onshore and offshore energy, including renewable, minerals, oil and gas, and other energy resources;
- Managing migratory birds and preserving marine mammals and endangered species;
- Managing dedicated lands, such as national parks, wildlife refuges, National Landscape Conservation System lands, and American Indian trust lands;
- Managing public lands open to multiple use;
- Managing revenues from American Indian and Federal minerals;
- Fulfilling trust and other responsibilities pertaining to American Indians;
- Managing natural resource damage assessments; and
- Managing assistance programs.

Regulatory Policy

How DOI regulatory priorities support the President's energy, resource management, environmental sustainability, and economic recovery goals.

DOI's regulatory programs seek to operate programs transparently, efficiently, and cooperatively while maximizing protection of our land, resources, and environment in a fiscally responsible way by:

(1) Protecting Natural, Cultural, and Heritage Resources.

The Department's mission includes protecting and providing access to our Nation's natural and cultural heritage and honoring our trust responsibilities to tribes. We are committed to this mission and to applying laws and regulations fairly and effectively. Our priorities include protecting public health and safety, restoring and maintaining public lands, protecting threatened and endangered species, ameliorating land- and resource-management problems on public lands, and ensuring accountability and compliance with Federal laws and regulations.

The Bureau of Land Management (BLM) Wildlife Program continues to focus on maintaining and managing wildlife habitat to ensure self-sustaining populations and a natural abundance and diversity of wildlife resources on public lands. BLM-managed lands are vital to game species and hundreds of species of non-game mammals, reptiles, and amphibians. In order to provide for long-term protection of wildlife resources, especially given other mandated land use requirements, the Wildlife Program supports aggressive habitat conservation and restoration activities, many funded by partnerships with Federal, State, and non-governmental organizations. For instance, the Wildlife Program is restoring wildlife habitat across a multi-State region to support species that depend upon sagebrush vegetation. Projects are tailored to address regional issues such as fire (as in the western portion of the sagebrush biome) or habitat degradation and loss (as in the eastern portion of the sagebrush biome). Additionally, BLM undertakes habitat improvement projects in partnership with a variety of stakeholders and consistent with State fish and game wildlife action plans and local working group plans.

The National Park Service (NPS) is working with BLM and the U.S. Fish and Wildlife Service to finalize a rule implementing Public Law 106-206, which directs the Secretary to establish a system of location fees for commercial filming and still photography activities on public lands. While commercial filming and still photography are generally allowed on Federal lands, managing this activity through a permitting process will minimize damage to cultural or natural resources and interference with other visitors to the area. This regulation would standardize location fee rates and collection for all DOI agencies.

The Park Service is developing a new winter use regulation for Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr., Memorial Parkway. This regulation will replace an interim rule expiring at the end of the 2010 to 2011 winter season. It will establish an average daily entrance limit on the number of snowmobiles and snow coaches that may enter the park, and will continue the limit of 10 snowmobiles for groups and guided tours. As the first steps toward developing this new rule, NPS will publish a proposed rule in the spring of 2011.

In 2008, in consultation with an interagency work group, NPS began developing a proposed rule to provide more efficient and cost-effective management of federally owned archaeological collections. At present,

there is no legal procedure to deaccession items in Federal collections that are of ''insufficient archaeological interest;'' i.e., they are of no further value to the science of archaeology or to the integrity of the collection in which they are contained. This rule would free up space in collections and allow custodians to allocate more time and effort to care of remaining items while ensuring proper disposition of those archaeological items.

The rule also requires assigning a specific individual to be accountable for proper disposition. This complicated rule is now undergoing final review and should be ready for publication in early 2011.

(2) Sustainably Using Energy, Water, and Natural Resources.

The Bureau of Land Management has identified a total of approximately 20.6 million acres of public land with wind energy potential in the 11 western states and approximately 29.5 million acres with solar energy potential in the six southwestern states. There are over 140 million acres of public land in western states and Alaska with geothermal resource potential. There is also significant wind and wave potential in our offshore waters. The National Renewable Energy Lab, a Department of Energy national laboratory, has identified more than 1,000 gigawatts of wind potential off the Atlantic coast—roughly equivalent to the Nation's existing installed electric generating capacity—and more than 900 gigawatts of wind potential off the Pacific Coast. Because public lands are extensive and widely distributed, the Department has an important role, in consultation with Federal, State, regional, and local authorities, in siting new transmission lines needed to bring renewable energy assets to load centers.

Since the beginning of the Obama Administration, the Department has focused on renewable energy issues and has established priorities for environmentally responsible development of renewable energy on our public lands and the outer continental shelf. Industry has started to respond by investing in development of wind farms off the Atlantic seacoast and solar, wind, and geothermal energy facilities throughout the west. Power generation from these new energy sources produces virtually no greenhouse gases, and when done in an environmentally sensitive manner, harnesses with minimum impact abundant, renewable energy that nature itself provides. The Department will continue its intra- and inter-departmental efforts to move forward with the environmentally responsible review and permitting of renewable energy projects on public lands.

On March 11, 2009, the Secretary issued his first Secretarial Order that made facilitating production, development, and delivery of renewable energy on public lands and the OCS top priorities at the Department. In accomplishing these goals, the Department will protect our signature landscapes, natural resources, wildlife, and cultural resources and will collaborate with relevant Federal, State, tribal, and other agencies. The Secretarial Order also established an energy and climate change task force that draws from the leadership of each of the bureaus and is responsible for:

- Quantifying potential contributions of renewable energy resources on our public lands and the OCS; and
- Identifying and prioritizing specific areas on public lands where the Department can facilitate a rapid and responsible increase in production of renewable energy.

On April 29, 2009, the former Minerals Management Service published a final rule to establish a program to grant leases, easements, and rights-of-way for renewable energy projects on the Outer Continental Shelf (OCS). These regulations will ensure the orderly, safe, and environmentally responsible development of renewable energy sources on the OCS.

(3) Empowering People and Communities.

The Department encourages public participation in the regulatory process by seeking public input on a variety of regulatory issues. For example, every year the Fish and Wildlife Service (FWS) establishes migratory bird hunting seasons in partnership with flyway councils composed of State fish and wildlife agencies. FWS also holds a series of public meetings to give other interested parties, including hunters and other groups, opportunities to participate in establishing the upcoming season's regulations.

Similarly, the Bureau of Land Management uses Resource Advisory Councils made up of affected parties to help prepare land management plans and regulations that it issues.

The National Park Service (NPS) has begun revising its rules on non-Federal development of gas and oil in units of the National Park System. Of the approximately 700 gas and oil wells in 13 NPS units, 55 per cent, or 385 wells, are exempt from current regulations. NPS is revising the regulations to improve protection of NPS resources and bring those 385 wells under the regulatory umbrella. NPS actively sought public input into designing the rule and published an Advance Notice of Proposed Rulemaking with a comment period from November 15, 2009, through January 25, 2010. Interested members of the public were able to make suggestions on the content of the regulation, which NPS will consider in writing the proposed rule. After developing a proposed rule, NPS will solicit further public comment. NPS expects to publish a proposed rule in mid 2011.

Accountability and Sustainability Through Regulatory Efficiency

We are using the regulatory process to improve results while easing regulatory burdens. For instance, the Endangered Species Act (ESA) allows for delisting threatened and endangered species if they no longer need the protection of the ESA. We are working to identify species for which delisting or downlisting (reclassification from endangered to threatened) may be appropriate.

The Fish and Wildlife Service has found that making listing decisions under the Endangered Species Act in Hawaii on a traditional, species-by-species basis is inefficient, since very similar information and analysis would be repeated in each rule. To improve efficiency, FWS is making listing decisions for 48 species on the island of Kauai in one regulatory package. This allows the Service to address the existing backlog of candidate species more quickly.

Most candidate species on the Hawaiian Islands face nearly identical threats and are only found in the few remaining native-dominated ecological communities. The impacts of these threats are well understood at the community level, while their impacts to the individual candidate species are relatively less studied. Because this ecological community approach focuses on conserving the key physical and biological components of native communities and ecosystems, it may preclude the need to list additional species found in the same ecological communities. Recovery plans developed in response to the Kauai listing will focus conservation efforts on protection and restoration of ecosystem processes, allowing us to more efficiently address

common threats in the most important areas.

DOI bureaus work to make our regulations easier to comply with and understand. Our regulatory process ensures that bureaus share ideas on how to reduce regulatory burdens while meeting the requirements of the laws they enforce and improving their stewardship of the environment and resources. Results include:

- Effective stewardship of our Nation's resources in a way that is responsive to the needs of small businesses;
- Increased benefits per dollars spent by carefully evaluating the economic effects of planned rules; and
- Improved compliance and transparency by use of plain language in our regulations and guidance documents.

Bureaus and Offices Within DOI

The following brief descriptions summarize the regulatory functions of DOI's major regulatory bureaus and offices.

Bureau of Indian Affairs

The Bureau of Indian Affairs (BIA) administers and manages 56 million acres of land held in trust by the United States for Indians and Indian tribes, providing services to approximately 1.9 million Indians and Alaska Natives, and maintaining a government-to-government relationship with the 565 federally recognized Indian tribes. BIA's mission is to enhance the quality of life, to promote economic opportunity, and to carry out the responsibility to protect and improve the trust assets of American Indians, Indian tribes, and Alaska Natives, as well as to provide quality education opportunities to students in Indian schools.

In the coming year, BIA will continue its regulatory focus on improved management of trust responsibilities and promotion of economic development in Indian communities. In addition, we will focus on updating Indian education regulations and on other regulatory changes to increase transparency in support of the President's Open Government Initiative.

With the input of tribal leaders, individual Indian beneficiaries, and other subject matter experts, BIA has been examining ways to better serve its beneficiaries. The American Indian Probate Reform Act of 2004 (AIPRA) made clear that regulatory changes were necessary to update the manner in which we meet our trust management responsibilities. We have promulgated regulations implementing the probate-related provisions of AIPRA and will now focus on regulations to implement other AIPRA provisions related to managing Indian land.

The focus on promoting economic development in Indian communities is a core component of BIA's mission. Economic development initiatives can attract businesses to Indian communities and fund services that support the health and well-being of tribal members.By providing the tools necessary to promote economic development, economic development can enable tribes to attain self-sufficiency, strengthen their governments, and reduce crime.

Indian education is a top priority of the Assistant Secretary—Indian Affairs. For this reason, we will review Indian education regulations to ensure that they adequately support efforts to provide students of BIA-funded schools with the best education possible.

Finally, BIA's regulatory focus on increasing transparency implements the President's Open Government Initiative. We will ensure that all regulations that we draft or revise meet high standards of readability and accurately and clearly describe BIA processes.

BIA's regulatory priorities are to:

- Develop regulations to meet the Indian trust reform goals for land consolidation and land use management.

  BIA is developing amendments to regulations in the areas of land title and records, conveyances of trust or restricted land, leasing, grazing, trespass, rights-of-way, and energy and minerals. Together, these regulatory changes will provide the Department with the tools it needs to better serve beneficiaries and will standardize procedures for consistent execution of fiduciary responsibilities across the BIA.

- Revise loan guaranty regulations to promote private investment in Indian Country.

  BIA plans to propose a rule that would address the chronic lack of business lending faced by Indian communities. While BIA currently operates a successful loan guaranty, insurance, and interest subsidy program, the program's current regulations are best suited to assisting for-profit businesses to secure loans in the $250,000 to $10 million range. Revisions to the rule would:
  – Promote financing for smaller loans (under $250,000), which are important for sparking economic development, by allowing community development financial institutions to obtain program guarantees and insurance and by using fiscal transfer agents to encourage financing for small loans.
  – Obtain funding for higher cost projects (above $10 million)-including infrastructure projects, energy projects, and other large projects requiring a longer repayment horizon-by offering a Federal Government guarantee for taxable tribal bonds. The guarantee would help ensure bond placement, decrease market rates charged for bonds, and help tribes become established in the bond market.
  – Extend eligibility for the program to non-profit borrowers who make a significant economic contribution to the Indian reservation or tribal service area.

  These changes are authorized by the Indian Financing Act, as amended by the Native American Technical Corrections Act of 2006.

- Identify and develop regulatory changes necessary for improved Indian education.

  BIA is currently reviewing regulations addressing grants to tribally controlled community colleges and other Indian education regulations. The review will identify provisions that need to be updated to comply with applicable statutes and ensure that the proper regulatory framework is in place to support students of Bureau-funded schools.

- Develop regulatory changes to reform the process for Federal acknowledgment of Indian tribes.

  Over the years, BIA has received significant comments from American Indian groups and members of Congress on the Federal acknowledgment process established by 25 CFR part 83. Most of these comments claim that the current process is cumbersome and overly restrictive. BIA is reviewing the current Federal acknowledgment regulation and will develop any necessary regulatory changes.

- Revise regulations governing administrative appeals and other processes to increase transparency.

  BIA is making a concentrated effort to improve the readability and precision of its regulations. Because trust beneficiaries often turn to the regulations for guidance on how a given BIA process works, BIA is

ensuring that each revised regulation is written as clearly as possible and accurately reflects the current organization of the Bureau. A few of the regulations BIA will be focusing this effort on include the regulation governing administrative appeals (25 CFR part 2), the land use management regulations mentioned above, and regulations addressing various Indian services.

The Bureau of Land Management

The Bureau of Land Management (BLM) manages the 245-million-acre National System of Public Lands, located primarily in the western States, including Alaska, and the 700-million-acre subsurface mineral estate located throughout the Nation. BLM's complex multiple-use mission affects the lives of a great number of Americans, including those who live near and visit the public lands, as well as millions of Americans who benefit from commodities, such as minerals, energy, or timber, produced from the lands' rich resources.

BLM's multiple-use mission conserves the lands' natural and cultural resources and sustains the health and productivity of the public lands for the use and enjoyment of present and future generations. BLM manages such varied uses as energy and mineral development, outdoor recreation, livestock grazing, and forestry and woodlands products. This year, BLM has celebrated the 10th anniversary of the National Landscape Conservation System (NLCS), created in 2000 to highlight the conservation side of the Agency's multiple-use mandate. Last year, Congress, through the passage of the Omnibus Public Land Management Act (Pub. L. 111-11), affirmed its support of BLM-managed NLCS in statute and added 929,000 acres of wilderness, one national monument, four national conservation areas, 363 miles of wild and scenic rivers, and 40 miles of national scenic and historic trails to the NLCS. More than 880 NLCS treasured landscapes now span the Nation from Florida to Alaska.

BLM is analyzing proposals for increasing renewable energy development on public lands. The quality of life that Americans enjoy today depends largely upon a stable and abundant supply of affordable energy. Because BLM manages more Federal land than any other agency—more than 245 million surface acres and 700 million subsurface acres of mineral estate—it plays a key role in ensuring that the Nation's energy needs are met by managing both Federal renewable and non-renewable sources of energy. This is accomplished in an environmentally and fiscally sound way that protects our natural resources and critical wildlife habitat for such species as the sage-grouse and lynx. Although renewable energy can help reduce greenhouse gases, its development is not without environmental impacts. Large, commercial-scale solar energy plants, for example, can have long-term environmental impacts and may override other uses of the land.

Another BLM priority is siting and authorizing transmission corridors to assist the national effort to move renewable energy from production sites to market. BLM has already accomplished a significant step in this direction by designating more than 5,000 miles of energy transport corridors for the West-wide Energy Corridors. Development of actual transmission lines is done by authorizing rights-of-way across public lands.

In an effort to prioritize its complex, multiple-use responsibilities, BLM has identified several emphasis areas to help explain its regulatory priorities. The following describes these programs and initiatives and reflects their interrelationship with the following priorities of the Secretary of the Interior:

- Energy independence
- Treasured landscapes
- Native American Nations

Treasured landscapes

Protecting the landscapes of the National System of Public Lands involves numerous BLM programs as the Agency moves toward a holistic, landscape-level approach to managing multiple public land uses. BLM also engages partners interested in working on a broader scale across jurisdictional lines to achieve a common landscape vision. For the past several years, BLM, which manages the largest amount and the greatest diversity of fish and wildlife habitat of any Federal agency, has focused on restoring healthy landscapes in a number of ways, including:

- Reducing the number of wild horses and burros on public lands, particularly in areas most affected by drought and wildfire. Maintaining the wild horse and burro population at appropriate management levels is critical in the effort to conserve forage resources that also sustain native wildlife and livestock.
- Restoring habitat for sensitive, rare, threatened, and endangered species, such as sage-grouse, desert tortoise, and salmon.
- Supporting greater biodiversity through noxious weed and invasive species treatments to bring back native plants.
- Improving water quality by restoring riparian areas and protecting watersheds. Enhanced water quality aids in the restoration of habitat for fish and other aquatic and riparian species.
- Conducting post-fire recovery efforts to promote healthy landscapes and discourage the spread of invasive species.

Native American Nations

BLM consults with Indian tribes on a government-to-government basis under multiple authorities and is continually working to assess and improve its tribal consultation practices. BLM held listening sessions throughout the West on this important issue in 2009 and 2010 and received many valuable comments. BLM has continued its efforts to improve its tribal consultation practices by participating with the Department in multiple listening sessions with tribes throughout the country.

The Native American Graves Protection and Repatriation Act (NAGPRA), enacted in 1990, addresses the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations to certain Native American human remains, funerary objects, associated funerary objects, sacred objects, and objects of cultural patrimony with which they are affiliated. The statute and implementing regulations represent a careful balance between the legitimate interests of lineal descendants, Indian tribes, and Native Hawaiian organizations to control the remains of their ancestors and cultural property and the legitimate public interests in scientific and educational information associated with the human remains and cultural items.

BLM is complying with the new NAGPRA regulations, including inventorying and repatriating human remains and other cultural items that are in BLM museum collections. BLM also consults with Indian tribes on implementing appropriate actions when human remains and other cultural items subject to NAGPRA are inadvertently discovered or intentionally excavated on the public lands.

Additionally, BLM, in cooperation with the Bureau of Indian Affairs, helps tribes and individual Indian allottees

develop their solid and fluid mineral resources. BLM is responsible for development, product measurement, and inspection and enforcement of extracting operations of the mineral estate on trust properties.

BLM's regulatory priorities

BLM's regulatory focus is directed primarily by the priorities of the President and Congress, which include:

- Facilitating domestic production of various sources of energy, including biomass, wind, solar, and other alternative sources.
- Providing for a wide variety of public uses while maintaining the long-term health and diversity of the land.
- Preserving significant natural, cultural, and historic resource values.
- Understanding the arid, semi-arid, arctic, and other ecosystems that BLM manages.
- Using the best scientific and technical information to make resource management decisions.
- Understanding the needs of the people who use and enjoy BLM-managed public lands and providing them with quality service.
- Securing the recovery of a fair return for using publicly owned resources and avoiding the creation of long-term liabilities for American taxpayers.
- Resolving problems and implementing decisions in cooperation with other agencies, States, tribal governments, and the public.

In developing regulations, BLM recognizes the need to ensure communication, coordination, and consultation with the public, including affected interests, tribes, and other stakeholders. BLM also works to draft regulations that are easy for the public to understand and that provide clarity to those most affected by them.

BLM's specific regulatory priorities include:

Revising onshore oil and gas operating standards

BLM expects to publish rules to revise several existing onshore oil and gas operating orders and propose one new onshore order. Onshore orders establish requirements and minimum standards and provide standard operating procedures. The orders are binding on operating rights owners and operators of Federal and Indian (except the Osage Nation) oil and gas leases and on all wells and facilities on State or private lands committed to Federal agreements. BLM is responsible for ensuring that oil or gas produced and sold from Federal or Indian leases is accurately measured for quantity and quality. The volume and quality of oil or gas sold from leases is key to determining the proper royalty to be paid by the lessee to the Office of Natural Resources Revenue. Existing Onshore Orders Number 3, 4, and 5 would be revised to use new industry standards so that they reflect current operating procedures and to require that proper verification and accounting practices are used consistently. New Onshore Order Number 9 would cover waste prevention and beneficial use. The revisions would ensure that proper royalties are paid on oil and gas removed from Federal and Trust lands.

Revising coal-management regulations

BLM plans to publish a proposed rule to amend the coal-management regulations that pertain to the administration of Federal coal leases and logical mining units. The rule would primarily implement provisions of the Energy Policy Act of 2005 that pertain to administering coal leases. The rule also would clarify the royalty rate applicable to continuous highwall mining, a new coal-mining method in use on some Federal coal leases.

Publishing rules on paleontological resources preservation

The 2009 omnibus public lands law included provisions on permitting for the collection of paleontological resources. BLM and the National Park Service are co-leads of a team with the U. S. Forest Service that will be drafting a paleontological resources rule. The rule would address the protection of paleontological resources and how BLM would permit the collection of these resources. The rule would also address other issues such as administering permits, casual collection of rocks and minerals, hobby collection of common invertebrate plants and fossils, and civil and criminal penalties for violation of these rules.

Revising the timber sale contract extension regulations

BLM regulations currently allow timber sale contract extensions under very limited circumstances and specifically do not allow extensions for ''market fluctuations.'' Nor do the regulations allow any reduction of contract value due to declines in the lumber market. BLM plans to publish a rule that would amend the forest product disposal regulations that pertain to the administration of forest product contracts. The recent decline in the housing industry has resulted in a more severe decline in the timber market than historically experienced, leaving many purchasers of BLM timber sale contracts without a reasonable market in which to sell harvested timber. The revised rule would allow BLM to extend contracts under specified circumstances. Regulatory changes would provide BLM more options to help maintain the logging and sawmilling infrastructure needed to manage the 66 million acres of timber and woodland resources on the public lands.

The Bureau of Ocean Energy Management, Regulation and Enforcement

On April 20, 2010, an explosion and fire erupted on an offshore drilling rig in the Gulf of Mexico called the *Deepwater Horizon.* As a result, the Secretary recommended a series of steps to immediately improve the safety of offshore oil and gas drilling operations in Federal waters and a suspension of certain permitting and drilling activities until the safety measures can be implemented and further analysis completed. Recommended actions include prescriptive near-term requirements, longer-term performance-based safety measures, and one or more Department-led working groups to evaluate longer-term safety issues.

The Bureau of Ocean Energy Management, Regulation and Enforcement (BOEM) replaced the former Minerals Management Service (MMS) and will strengthen oversight and policing of offshore oil and gas development. The program is national in scope and has two major program offices:

1) The Bureau of Ocean Energy Management will function as the resource manager for the conventional and renewable energy and mineral resources on the outer continental shelf (OCS). It will foster environmentally responsible and appropriate development of the OCS for both conventional and renewable energy and mineral resources in an efficient and effective manner that ensures fair market value for the rights conveyed.
2) The Bureau of Safety and Environmental Enforcement will apply independent regulation, oversight, and enforcement powers to promote and enforce safety in offshore energy exploration and production operations and ensure that potentially negative environmental impacts on marine ecosystems and coastal

communities are appropriately considered and mitigated.

In 2009, MMS completed a major milestone by developing and codifying the regulatory framework for renewable energy projects on the OCS. We are continuing to implement the regulatory provisions for developing the Nation's offshore wind, wave, and ocean current resources in a safe and environmentally sound manner.

Our regulatory focus for fiscal year 2011 is directed by Presidential and legislative priorities that emphasize contributing to America's energy supply, protecting the environment, and ensuring a fair return for taxpayers for energy production from Federal and Indian lands.

Our regulatory priorities are to:

- Establish New Requirements for Safety Measures for Oil and Gas Operations.

  This interim final rule published on October 15, 2010 (74 FR 63610). It implements certain safety measures outlined in a Safety Measures Report to the President dated May 27, 2010, which was prepared in response to the Deepwater Horizon event. The recommendations implemented in this interim rule revise regulations related to subsea and surface blowout preventers, well casing and cementing, secondary intervention, unplanned disconnects, recordkeeping, well completion, and well plugging.

- Develop a Comprehensive Safety and Environmental Management Program for Offshore Operations and Facilities.

  Promulgate a final rule for all OCS oil and gas operations and facilities under BOEM's jurisdiction including, but not limited to, drilling, production, construction, well workover, well completion, pipelines, fixed and floating facilities, mobile offshore drilling units, and lifting activities. This rule adds requirements for recordkeeping and documentation, hazards analysis, and job safety analysis for activities identified or discussed in the Safety and Environmental Management System program. It published on October 14, 2010 (74 FR 63346).

- Develop additional rules and regulations as a result of ongoing reviews of BOEMRE's offshore regulatory regime.

  Several investigations and reviews of BOEMRE are being conducted by various agencies and entities—including the Safety Oversight Board, the Office of Inspector General, the President's Deepwater Horizon Commission, the National Academy of Engineering, and the joint BOEMRE/USCG investigation of Deepwater Horizon. Some of these investigations and reviews focus narrowly on the Deepwater Horizon explosion; others are broader in focus and include many aspects of BOEMRE's current regulatory system. We expect that recommendations for regulatory changes—both substantive and procedural—will be generated by these investigations and reviews, and will need to be reviewed, analyzed, and potentially incorporated in new or modified regulations.

- Determine the proper value of coal for advanced royalty purposes.

  Implementing requirements in the Energy Policy Act of 2005, these regulations will provide clarification by re-designating and amending a BLM coal valuation directive. The rule will provide a needed alternative method to determine the value of coal for advanced royalty purposes.

Office of Natural Resource Revenue

The revenue responsibilities of the former MMS will now be located in the Office of Natural Resource Revenue (ONRR), which will continue to collect, account for, and disburse more than $13 billion per year in revenues from Federal offshore energy and mineral leases and from onshore mineral leases on Federal and Indian lands. The program will operate Nationwide and will be primarily responsible for timely and accurate collection, distribution, and accounting for revenues associated with mineral and energy production. The regulatory program of ONRR will seek to:

- Simplify valuation regulations.

  ONRR plans to simplify the regulations at 30 CFR part 206 for establishing the value for royalty purposes of oil, natural gas, coal, and geothermal produced from Federal and Indian leases. Additionally, the proposed rule would consolidate sections of the regulations common to all minerals such as definitions and instructions regarding how a payor should request a valuation determination.

- Finalize debt collection regulations.

  ONRR is preparing regulations governing collection of delinquent royalties, rentals, bonuses, and other amounts due under Federal and Indian oil, gas, and other mineral leases. The regulations would include provisions for administrative offset and would clarify and codify the provisions of the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996.

- Continue to meet Indian trust responsibilities.

  ONRR has a trust responsibility to accurately collect and disburse oil and gas royalties on Indian lands. ONRR will increase royalty certainty by addressing oil valuation for Indian lands through a rulemaking process involving key stakeholders.

U.S. Fish and Wildlife Service

The mission of the U.S. Fish and Wildlife Service (FWS) is to work with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. FWS also helps ensure a healthy environment for people by providing opportunities for Americans to enjoy the outdoors and our shared natural heritage.

FWS fulfills its responsibilities through a diverse array of programs that:

- Protect and recover threatened and endangered species;
- Monitor and manage migratory birds;
- Restore native aquatic populations and nationally significant fisheries;
- Enforce Federal wildlife laws and regulate international trade;
- Conserve and restore wildlife habitat such as wetlands;
- Help foreign governments conserve wildlife through international conservation efforts;
- Distribute Federal funds to States, territories, and tribes for fish and wildlife conservation projects; and
- Manage the 96-million-acre National Wildlife Refuge System, which protects and conserves fish and wildlife and their habitats and allows the public to engage in outdoor recreational activities.

Critical challenges to the work of FWS include global climate change; shortages of clean water suitable for wildlife; invasive species that are harmful to our fish, wildlife, and plant resources and their habitats; and the alienation of children and adults from the natural world. To address these challenges, FWS has identified six priorities:

- The National Wildlife Refuge System—conserving our lands and resources;
- Landscape conservation—working with others;

- Migratory birds—conservation and management;
- Threatened and endangered species—achieving recovery and preventing extinction;
- Connecting people with nature—ensuring the future of conservation; and
- Aquatic species—the National Fish Habitat Action Plan (a plan that brings public and private partners together to restore U.S. waterways to sustainable health).

To carry out these priorities, FWS has a large regulatory agenda that will, among other things:

- List, delist, and reclassify species on the Lists of Endangered and Threatened Wildlife and Plants and designate critical habitat for certain listed species;
- Update our regulations to carry out the Convention on International Trade in Wild Fauna and Flora;
- Manage migratory bird populations;
- Administer the subsistence program for harvest of fish and wildlife in Alaska;
- Update our regulations governing the Wildlife and Sport Fish Restoration Program; and
- Set forth hunting and sport fishing regulations for the National Wildlife Refuge System.

National Park Service

In November 2006, the National Park Service completed a nearly 10-year public process to develop a management plan for the Colorado River in Grand Canyon National Park. The Service is now implementing the plan by developing regulations that: Implement permit requirements for commercial river trips below a specified location in the canyon; update visitor use restrictions and camping closures; and eliminate unnecessary provisions in the current regulation. The proposed rule was published in the **Federal Register** on July13, 2009, and the public comment period ended on September 11, 2009. The Service hopes to complete and publish a final rule by the end of 2010.

The National Park Service is working with the Bureau of Land Management and the Fish and Wildlife Service to finalize rules implementing Public Law 106-206, which directs the Secretary to establish a reasonable fee system (location fees) for commercial filming and still photography activities on public lands. Although commercial filming and still photography are generally allowed on Federal lands, it is in the public's interest to manage these activities through a permitting process. This will minimize the possibility of damage to the cultural or natural resources or interference with other visitors to the area. This regulation would standardize the collection of location fees by DOI agencies.

Bureau of Reclamation

The Bureau of Reclamation's mission is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. To accomplish this mission, we employ management, engineering, and science to achieve effective and environmentally sensitive solutions.

Reclamation projects provide: Irrigation water service, municipal and industrial water supply, hydroelectric power generation, water quality improvement, groundwater management, fish and wildlife enhancement, outdoor recreation, flood control, navigation, river regulation and control, system optimization, and related uses. We have continued to focus on increased security at our facilities.

Our regulatory program focus in fiscal year 2011 is to ensure that our mission and laws that require regulatory actions are carried out expeditiously, efficiently, and with an emphasis on cooperative problem solving by implementing two newly authorized programs:

- Title I of Public Law 109-451 authorizes establishment of a rural water supply program to enable the Bureau of Reclamation to coordinate with rural communities throughout the Western United States to identify their potable water supply needs and evaluate options for meeting those needs. Under the Act, we are finalizing a rule that will define how we will identify and work with eligible rural communities. We published an interim final rule on November 17, 2008, and expect to publish a final rule in 2011.
- Title II of Public Law 109-451 authorizes the Secretary of the Interior, through the Bureau of Reclamation, to issue loan guarantees to assist in financing: (a) rural water supply projects, (b) extraordinary maintenance and rehabilitation of Reclamation project facilities, and (c) improvements to infrastructure directly related to Reclamation projects. This new program will provide an additional funding option to help western communities and water managers to cost effectively meet their water supply and maintenance needs. Under the Act, we are working with the Office of Management and Budget to publish a rule that will establish criteria for administering the loan guarantee program. We published a proposed rule on October 6, 2008, and expect to publish a final rule in 2011.

BILLING CODE 4310–RK–S

DEPARTMENT OF JUSTICE (DOJ)

Statement of Regulatory Priorities

The Department of Justice's highest priority is to protect America against acts of terrorism, both foreign and domestic, within the letter and spirit of the Constitution. While vigorously pursuing the fight against terrorism, the Department is also reinvigorating its traditional missions by embracing its historic role in fighting crime, protecting civil rights, preserving the environment, and ensuring fairness in the market place. The Department is working to achieve the fair and impartial administration of justice for all Americans, to assist its State and local partners, and to defend the Nation's interests according to the law. In addition to using investigative, prosecutorial, and other law enforcement activities, the Department is also using the regulatory process to better carry out the Department's wide-ranging law enforcement missions.

The Department of Justice's key regulatory priorities include regulatory initiatives in the area of civil rights, criminal justice, and immigration. These are summarized below. However, in addition to these initiatives, several other components of the Department carry out important responsibilities through the regulatory process. Although their regulatory efforts are not separately discussed in this overview of the regulatory priorities, those components have key roles in implementing the Department's anti-terrorism and law enforcement priorities.

Civil Rights

In September 2010, the Department published its final rules amending its regulations implementing title II of the Americans with Disabilities Act (ADA), which prohibits discrimination by public entities, and title III of the ADA, which prohibits discrimination by public accommodations and certain testing entities and requires commercial facilities to be constructed or altered in compliance with the ADA accessibility standards. These key regulations adopt revised ADA Standards for Accessible Design and address certain key policy issues. During the course of this rulemaking project, the Department became aware of the need to provide guidance on four additional subject matter areas—use of accessible web sites, movie captions and video descriptions, the accessibility of emergency call centers (Next Generation 9-1-1), and accessible equipment and furniture. On July 26, 2010, the Department published an advance notice of proposed rulemaking (ANPRM) for each of these subject areas. These rules will be the focus of the Civil Rights Division's regulatory activities for FY 2011. The Department also plans to propose amendments to its ADA regulations to implement the ADA Amendments Act of 2008, which took effect on January 1, 2009.

The four ANPRMs published on July 26, 2010, include:

NG 9-1-1. This ANPRM seeks information on possible revisions to the Department's regulation to ensure direct access to NG 9-1-1 services for individuals with disabilities. In 1991, the Department of Justice published a regulation to implement title II of the Americans with Disabilities Act of 1990 (ADA). That regulation requires public safety answering points (PSAPs) to provide direct access to persons with disabilities who use analog telecommunication devices for the deaf (TTYs) 28 CFR 35.162. Since that rule was published, there have been major changes in the types of communications technology used by the general public and by people who have disabilities that affect their hearing or speech. Many individuals with disabilities now use the Internet and wireless text devices as their primary modes of telecommunications. At the same time, PSAPs are planning to shift from analog telecommunications technology to new Internet-Protocol (IP)-enabled Next Generation 9-1-1 services (NG 9-1-1) that will provide voice and data (such as text, pictures, and video) capabilities. As PSAPs transition from the analog systems to the new technologies, it is essential that their plans ensure that people with communication disabilities will be able to use the new systems. Therefore, the Department published this ANPRM to begin to develop appropriate guidance for PSAPs that are making this transition.

Movie captioning and video description. Title III of the ADA requires public accommodations to take ''such steps as may be necessary to ensure that no individual with a disability is treated differently because of the absence of auxiliary aids and services, unless the covered entity can demonstrate that taking such steps would cause a fundamental alteration or would result in an undue burden.'' 42 U.S.C. section 12182(b)(2)(A)(iii). Both open and closed captioning and audio recordings are examples of auxiliary aids and services that should be provided by places of public accommodations, 28 CFR section 36.303(b)(1)-(2). The Department stated in the preamble to its 1991 rule that ''[m]ovie theaters are not required * * * to present open-captioned films,'' 28 CFR part 36, app. B, but it was silent regarding closed captioning and video description in movie theaters.

Since 1991, there have been many technological advances in the area of closed captioning and video description for first-run movies. In June 2008, the Department issued a Notice of Proposed Rulemaking (NPRM) to revise the ADA title III regulation, 73 FR 34466, in which the Department stated that it was considering options for requiring that movie theater owners or operators exhibit movies that are captioned or that provide video (narrative) description. The Department received numerous comments urging the Department to issue captioning and video description regulations. The Department is persuaded that such regulations are appropriate. However, the Department decided to issue an ANPRM to obtain more information regarding issues raised by commenters; to seek comment on technical questions that arose from the Department's research; and to learn more about the status of digital conversion. In addition, the Department sought information regarding whether other technologies or areas of interest (e.g., 3D) have developed or are in the process of development that either would replace or augment digital cinema or make any regulatory requirements for captioning and video description more difficult or expensive to implement. Responses to these questions will inform the Department's decisions about the scope of a proposed rule.

Web Site Accessibility. The Internet as it is known today did not exist when Congress enacted the ADA, yet today the World Wide Web plays a critical role in the daily personal, professional, civic, and business life of Americans. The ADA's expansive nondiscrimination mandate reaches goods and services provided by public accommodations and public entities using Internet websites. Being unable to access websites puts individuals at a great disadvantage in today's society, which is driven by a dynamic electronic marketplace and unprecedented access to information. On the economic front, electronic commerce, or ''e-commerce,'' often offers consumers a wider selection and lower prices than traditional, ''brick-and-mortar'' storefronts, with the added convenience of not having to leave one's home to obtain goods and services. For individuals with

disabilities who experience barriers to their ability to travel or to leave their homes, the Internet may be their only way to access certain goods and services. Beyond goods and services, information available on the Internet has become a gateway to education, socializing, and entertainment.

The Internet is also dramatically changing the way that governmental entities serve the public. Public entities are increasingly providing their constituents access to government services and programs through their websites. Through government websites, the public can obtain information or correspond with local officials without having to wait in line or be placed on hold. They can also pay fines, apply for benefits, renew State-issued identification, register to vote, file taxes, request copies of vital records, and complete numerous other everyday tasks. The availability of these services and information online not only makes life easier for the public, but also enables governmental entities to operate more efficiently and at a lower cost.

The ADA's promise to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of American civic and economic life will be achieved in today's technologically advanced society only if it is clear to State and local governments, businesses, educators, and other public accommodations that their websites must be accessible. Consequently, the Department is considering amending its regulations implementing title II and title III of the ADA to require public entities and public accommodations that provide products or services to the public through Internet websites make their sites accessible to and usable by individuals with disabilities.

Equipment and Furniture. Both title II and title III of the ADA require covered entities to make reasonable modifications in their programs or services to facilitate participation by persons with disabilities. In addition, covered entities are required to ensure that people are not excluded from participation because facilities are inaccessible or because the entity has failed to provide auxiliary aids. The use of accessible equipment and furniture is often critical to an entity's ability to provide a person with a disability equal access to its services. Changes in technology have resulted in the development and improved availability of accessible equipment and furniture that benefit individuals with disabilities. Consequently, it is easier now to specify appropriate accessibility standards for such equipment and furniture, as the 2010 ADA Standards will do for several types of fixed equipment and furniture, including ATMs, washing machines, dryers, tables, benches, and vending machines. To the extent that ADA standards apply requirements for fixed equipment and furniture, the Department will look to those standards for guidance on accessibility standards for equipment and furniture that are not fixed. The ANPRM seeks information about other categories of equipment—particularly medical equipment and exercise equipment. The public is invited to suggest other types of equipment that should be addressed.

Prison Rape Elimination

Pursuant to the Prison Rape Elimination Act of 2003 (PREA or the ''Act''), the Department is drafting regulations to adopt national standards for the detection, reduction, and punishment of prison rape. PREA established the National Prison Rape Elimination Commission for the purpose of studying prison rape. The Commission issued a report that provided recommended national standards for reducing prison rape, which in turn, are to be reviewed by the Justice Department. Specifically, PREA mandates that national standards issued pursuant to PREA ''shall be based upon the independent judgment of the Attorney General, after giving due consideration to the recommended national standards provided by the Commission... and being informed by such data, opinions, and proposals that the Attorney General determines to be appropriate to consider.'' The Act further provides that the Department ''shall not establish a national standard... that would impose substantial additional costs compared to the costs presently expended by Federal, State, and local prison authorities.''

The Department is reviewing the Commission's recommendations and is drafting proposed regulations. In addition, the Department is reviewing a study by an independent contractor commissioned by the Department's Office of Justice Programs to analyze the costs of the Commission's proposed recommendations. The Department is also reviewing extensive public comments on the Commission's proposed recommendations pursuant to an ANPRM that the Department issued while awaiting the completion of the cost analysis.

Federal Habeas Corpus Review Procedures in Capital Cases

Pursuant to the USA PATRIOT Improvement and Reauthorization Act of 2005, on December 11, 2008, the Department promulgated a final rule to implement certification procedures for States seeking to qualify for the expedited Federal habeas corpus review procedures in capital cases under chapter 154 of title 28 of the United States Code. On February 5, 2009, the Department published in the **Federal Register** a notice soliciting further public comment on all aspects of the December 2008 final rule. As the Department reviewed the comments submitted in response to the February 2009 notice, it considered further the statutory requirements governing the regulatory implementation of the chapter 154 certification procedures. The Attorney General has determined that chapter 154 reasonably could be construed to allow the Attorney General greater discretion in making certification determinations than the December 2008 regulations allowed. Accordingly, a new rulemaking, and the removal of the entire December 2008 final rule, is warranted in order to articulate the standards the Attorney General will apply in making chapter 154 certification decisions and to obtain public input concerning the formulation of such standards. As the first step of this process, the Department published a notice in the **Federal Register** on May 25, 2010, proposing to remove the December 2008 regulations pending the completion of a new rulemaking process. The May 2010 rule will be finalized by a final rule to be published in the fall of 2010. The next step in the process will be the publication of a new proposed rule proposing new chapter 154 certification standards and seeking public input concerning the formulation of such standards.

Criminal Law Enforcement

For the most part, the Department's criminal law enforcement components do not rely on the rulemaking process to carry out their assigned missions. The Federal Bureau of Investigation (FBI), for example, is responsible for protecting and defending the United States against terrorist and foreign intelligence threats, upholding and enforcing the criminal laws of the United States, and providing leadership and criminal justice services to Federal, State, municipal, and international agencies and partners. Only in very limited contexts does the FBI rely on rulemaking. For example, the FBI is currently updating its National Instant

Criminal Background Check System regulations to allow criminal justice agencies to conduct background checks prior to the return of firearms.

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) issues regulations to enforce the Federal laws relating to the manufacture and commerce of firearms and explosives. ATF's mission and regulations are designed to:

- Curb illegal traffic in, and criminal use of, firearms, and to assist State, local, and other Federal law enforcement agencies in reducing crime and violence;
- Facilitate investigations of violations of Federal explosives laws and arson-for-profit schemes;
- Regulate the firearms and explosives industries, including systems for licenses and permits;
- Assure the collection of all National Firearms Act (NFA) firearms taxes and obtain a high level of voluntary compliance with all laws governing the firearms industry; and
- Assist the States in their efforts to eliminate interstate trafficking in, and the sale and distribution of, cigarettes and alcohol in avoidance of Federal and State taxes.

ATF will continue, as a priority during fiscal year 2011, to seek modifications to its regulations governing commerce in firearms and explosives. ATF plans to issue final regulations implementing the provisions of the Safe Explosives Act, title XI, subtitle C, of Public Law 107-296, the Homeland Security Act of 2002 (enacted Nov. 25, 2002).

Electronic Prescriptions for Controlled Substances. Combating the proliferation of methamphetamine and preventing the diversion of prescription drugs for illicit purposes are among the Attorney General's top drug enforcement priorities. The Drug Enforcement Administration (DEA) is responsible for enforcing the Controlled Substances Act and its implementing regulations to prevent the diversion of controlled substances, while ensuring adequate supplies for legitimate medical, scientific, and industrial purposes. DEA accomplishes its objectives through coordination with State, local, and other Federal officials in drug enforcement activities, development and maintenance of drug intelligence systems, regulation of legitimate controlled substances, and enforcement coordination and intelligence-gathering activities with foreign government agencies. DEA continues to develop and enhance regulatory controls relating to the diversion control requirements for controlled substances.

One of DEA's key regulatory initiatives is its Interim Final Rule with Request for Comment ''Electronic Prescriptions for Controlled Substances'' [RIN 1117-AA61]. This regulation provides practitioners with the option of writing prescriptions for controlled substances electronically and permits pharmacies to receive, dispense, and archive electronic prescriptions for controlled substances. This regulation provides pharmacies, hospitals, and practitioners with the ability to use modern technology for controlled substance prescriptions while maintaining the closed system of controls on controlled substances.

Bureau of Prisons Initiatives. The Federal Bureau of Prisons issues regulations to enforce the Federal laws relating to its mission: To protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens. During the next 12 months, in addition to other regulatory objectives aimed at accomplishing its mission, the Bureau will continue its ongoing efforts to: Streamline regulations, eliminating unnecessary language and improving readability; improve disciplinary procedures through a revision of the subpart relating to the disciplinary process; reduce the introduction of contraband through various means, such as clarifying drug and alcohol surveillance testing programs; protect the public from continuing criminal activity committed within prison; and enhance the Bureau's ability to more closely monitor the communications of high-risk inmates.

Immigration Matters

On March 1, 2003, pursuant to the Homeland Security Act of 2002 (HSA), the responsibility for immigration enforcement and for providing immigration-related services and benefits such as naturalization and work authorization was transferred from the Justice Department's Immigration and Naturalization Service (INS) to the Department of Homeland Security (DHS). However, the immigration judges and the Board of Immigration Appeals in the Executive Office for Immigration Review (EOIR)) remain part of the Department of Justice. The immigration judges adjudicate approximately 300,000 cases each year to determine whether the aliens should be ordered removed or should be granted some form of relief from removal, and the Board has jurisdiction over appeals from those decisions, as well as other matters. Accordingly, the Attorney General has a continuing role in the conduct of removal hearings, the granting of relief from removal, and the detention or release of aliens pending completion of removal proceedings. The Attorney General also is responsible for civil litigation and criminal prosecutions relating to the immigration laws.

In several pending rulemaking actions, the Department is working to revise and update the regulations relating to removal proceedings in order to improve the efficiency and effectiveness of the hearings in resolving issues relating to removal of aliens and the granting of relief from removal.

On June 3, 2009, the Attorney General announced his intention to initiate a new rulemaking proceeding for regulations to govern claims of ineffective assistance of counsel in immigration proceedings. The Department is currently drafting regulations to further this goal. The Department is also drafting regulations pursuant to the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to take into account the specialized needs of unaccompanied alien children in removal proceedings.

DOJ—Legal Activities (LA)

PROPOSED RULE STAGE

93. NATIONAL STANDARDS TO PREVENT, DETECT, AND RESPOND TO PRISON RAPE

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

5 USC 301; 28 USC 509; 28 USC 510; 42 USC 15601

CFR Citation:

28 CFR 115

Legal Deadline:

Final, Statutory, June 23, 2010.

Abstract:

The Department of Justice has under review national standards for enhancing the prevention, detection, and response to sexual abuse in confinement settings that were prepared by the National Commission on Prison Rape Elimination pursuant to the Prison Rape Elimination Act of 2003 (PREA) and recommended by the Commission to the Attorney General. Through an Advance Notice of Proposed Rulemaking (ANPRM), the Department received public input on the Commission's proposed national standards and information useful to the Department in publishing a final rule adopting national standards for the detection, prevention, reduction and punishment of prison rape, as mandated by PREA.

Statement of Need:

Rape is violent, destructive, and a crime—no less so when the victim is incarcerated. Tolerance of sexual abuse of prisoners in the government's custody is incompatible with American values. Congress affirmed the duty to protect incarcerated individuals from sexual abuse by enacting the Prison Rape Elimination Act of 2003 (PREA), 42 U.S.C. section 15601 et seq.

Summary of Legal Basis:

PREA requires the Attorney General to promulgate regulations that adopt national standards for the detection, prevention, and punishment of prison rape. PREA established the Commission to carry out a comprehensive legal and factual study of a penological, physical, mental, medical, social, and economic impacts of prison rape in the United States, and to recommend to the Attorney General national standard for the detection, prevention, reduction and punishment of prison rape. The Commission released its recommended national standards in a report dated June 23, 2009. Pursuant to PREA the final rule adopting national standards ''shall be based upon the independent judgment of the Attorney General, after giving due consideration to the recommended national standards provided by the Commission. . .and being informed by such data, opinions, and proposals that the Attorney General determines to be appropriate to consider.'' 42 U.S.C. section 24607(a)(2). PREA expressly mandates that the Department shall not establish a national standard ''that would impose substantial additional costs compared to the costs presently expended by the Federal, State, and local prison authorities.'' 42 U.S.C. section 24607(a)(3).

Alternatives:

Given the specific direction of Congress, the Department is obligated to issue a rule that promulgates regulations establishing national standards to combat prison rape. As discussed in the rule and in the Regulatory Impact Analysis (RIA) the Department has received input from numerous stakeholders concerning the development of these regulations and, as part of the development process, considered a wide range of proposals in developing the content of such standards.

Anticipated Cost and Benefits:

In directing the Attorney General to promulgate national standards for enhancing the prevention, detection, reduction, and punishment of prison rape. Congress understood that such standards were likely to require federal, state, and local agencies (as well as private entities) that operate inmate confinement facilities to incur costs in implementing and complying with those standards. Given the statue's aspiration to ''eliminate'' prison rape in the United states, Congress recognized that costs would need to be expended. Indeed, the statute's findings (42 U.S.C. section 15601) suggest an assessment by Congress that the benefits to society of eliminating prison rape are likely to outweigh any anticipated costs of achieving that goal.

The Department's full discussion of the anticipated costs and benefits of this rule is included in the rule's Initial Regulatory Impact Assessment.

Risks:

These regulations are intended to carry out the intent of Congress to eliminate prison rape. The risks from the failure to promulgate these regulations are primarily that inmates in Federal, State, and local facilities would be at higher risk of sexual assault than they would be if these regulations are promulgated.

Timetable:

Action	Date	FR Cite
ANPRM	03/10/10	75 FR 11077
ANPRM Comment Period End	05/10/10	
NPRM	12/00/10	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

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DEPARTMENT OF LABOR (DOL)

U.S. DEPARTMENT OF LABOR

Fall 2010 Statement of Regulatory Priorities

Secretary Solis has consistently stated that all of the work of the Department of Labor is focused on achieving *Good Jobs for Everyone.* The Labor Department's vision of a ''good job'' includes jobs that:

• increase workers' incomes and narrow wage and income inequality;

• assure workers are paid their wages and overtime;

• increase workers' incomes and narrow wage and income inequality;

• assure workers are paid their wages and overtime;

• are in safe and healthy workplaces, and fair and diverse workplaces;

• provide workplace flexibility for family and personal care-giving;

• improve health benefits and retirement security for all workers; and

• assure workers have a voice in the workplace.

To achieve this goal, the Department is using every tool in its toolbox, including increased enforcement actions, increased education and outreach, and targeted regulatory actions. Because the Department cannot be in every workplace every day, our targeted regulatory actions are centered on two broad themes—Plan/Prevent/Protect, and Openness and Transparency. These unifying themes seek to foster a new calculus that strengthens protections for workers and results in significantly increased compliance. Employers and other regulated entities must take full ownership over their adherence to Department regulations. The Department also hopes that with greater openness and transparency, workers will be in a better position to judge whether their workplace is one that values health and safety, work-life balance, and diversity.

Plan/Prevent/Protect Compliance Strategy

In the fall 2010 regulatory agenda, the Occupational Safety and Health Administration (OSHA), Mine Safety and Health Administration (MSHA), Office of Federal Contract Compliance Programs (OFCCP), and the Wage and Hour Division (WHD) will all propose regulatory actions that would require employers to develop programs to address specific compliance issues within each agency's portfolio. Although the specifics will vary by law, industry, and regulated enterprise, the Plan/Prevent/Protect strategy seeks to remind employers and other regulated entities that they are responsible for full compliance with the law every day, not just when Department inspectors come calling. As announced with the spring 2010 regulatory agenda, the strategy will require employers and other regulated entities to:

• ''**Plan**'': Create a plan for identifying and remediating risks of legal violations and other risks to workers—for example, a plan to inspect their workplaces for safety hazards that might injure or kill workers. Workers will be given opportunities to participate in the creation of the plans. In addition, the plans would be made available to workers so they can fully understand them and help to monitor their implementation.

• **''Prevent**'': Thoroughly and completely implement the plan in a manner that prevents legal violations. The plan cannot be a mere paper process. This will not be an exercise in drafting a plan only to put it on a shelf. The plan must be fully implemented.

• **''Protect**'': Verify on a regular basis that the plan's objectives are being met. The plan must actually protect workers from health and safety risks and other violations of their workplace rights.

Employers and other regulated entities who fail to take these steps to comprehensively address the risks, hazards, and inequities in their workplaces will be considered out of compliance with the law and, depending upon the agency and the substantive law it is enforcing, subject to remedial action. But employers, unions, and others who follow the Department's Plan/Prevent/Protect strategy will assure compliance with employment laws before Labor Department enforcement personnel arrive at their doorsteps. Most important, they will assure that workers get the safe, healthy, diverse, family-friendly, and fair workplaces they deserve.

Openness and Transparency: Tools for Achieving Compliance

Greater openness and transparency continues to be central to the Department's compliance and regulatory strategies. The fall 2010 regulatory plan demonstrates the Department's continued commitment to conducting the people's business with openness and transparency, not only as good government and stakeholder engagement strategies, but as important means to achieve compliance with the employment laws administered and enforced by the Department. Openness and transparency will not only enhance agencies' enforcement actions but will encourage greater levels of compliance by the regulated community and enhance awareness among workers of their rights and benefits. When employers, unions, workers, advocates, and members of the public have greater access to information concerning workplace conditions and expectations, then we all become partners in the endeavor to create Good Jobs for Everyone.

Worker Protection Responsiveness

The Department believes Plan/Prevent/Protect and increased Openness and Transparency will result in gradual improvements to worker health and safety. However, when the Department identifies specific hazards and risks to worker health, safety, security or fairness, we will utilize our regulatory powers to limit the risk to workers. The fall 2010 regulatory plan includes examples of such regulatory initiatives to address such specific concerns.

MSHA is planning several regulatory initiatives to respond to specific health and safety needs of workers: (1) MSHA plans to issue an emergency temporary standard (ETS) covering the Maintenance of Incombustible Content of Rock Dust in Underground Coal Mines, (2) MSHA advanced the publication date for the proposed rule covering Examinations of Work Areas in Underground Coal Mines from March 2011 to October 2010, and (3) MSHA decided not to publish a request for information on Safety and Health Management Programs for Mines and is instead planning to hold a series of public meetings in October 2010 followed by the publication of a proposed rule in June 2011.

OSHA plans to issue a proposed rule that will update fatality and catastrophe reporting requirements so the Agency receives more timely information on a broader range of catastrophic events, which will help OSHA conduct more responsive investigations.

Crystalline silica exposure is one of the most serious hazards workers face. OSHA and MSHA are both proposing to address worker exposures to crystalline silica through the promulgation and enforcement of a comprehensive health standard.

Occupational Safety and Health Administration (OSHA)

OSHA's regulatory program is designed to help workers and employers identify hazards in the workplace, prevent the occurrence of injuries and adverse health effects, and communicate with the regulated community regarding hazards and how to effectively control them. Long-recognized health hazards such as silica, beryllium, and emerging hazards such as food flavorings containing diacetyl place American workers at risk of serious disease and death and are initiatives on OSHA's regulatory agenda. In addition to targeting specific hazards, OSHA is focusing on systematic processes that will modernize the culture of safety in America's workplaces.

Plan/Prevent/Protect

Infectious Diseases

OSHA is considering the need for regulatory action to address the risk to workers exposed to infectious diseases in healthcare and other related high-risk environments. The Agency is considering an approach that would combine elements of the Department's Plan/Prevent/Protect strategy with established infection control practices. The Agency received strong stakeholder participation in response to its May 2010 request for information on infectious diseases and is currently reviewing the docket.

In 2007, the healthcare and social assistance sector as a whole had 16.5 million employees. Healthcare workplaces can range from small, private practices of physicians to hospitals that employ thousands of workers. In addition, healthcare is increasingly being provided in other settings such as nursing homes, free-standing surgical and outpatient centers, emergency care clinics, patients' homes, and pre-hospitalization emergency care settings. OSHA is interested in all routes of infectious disease transmission in healthcare settings not already covered by its bloodborne pathogens standard (e.g., contact, droplet, and airborne). The Agency is particularly concerned by studies that indicate that transmission of infectious diseases to both patients and healthcare workers may be occurring as a result of incomplete adherence to recognized, but voluntary, infection control measures. Another concern is the movement of healthcare delivery from the traditional hospital setting, with its greater infrastructure and resources to effectively implement infection control measures, into more diverse and smaller workplace setting with less infrastructure and fewer resources, but with an expanding worker population.

Injury and illness Prevention Program (12P2)

OSHA's I2P2 program is the prototype for the Department's Plan/Prevent/Protect strategy. OSHA's first step in this important rulemaking was to hold stakeholder meetings. Stakeholder meetings were held in East Brunswick, NJ; Dallas, Texas; Washington, DC; and Sacramento, California, beginning in June 2010 and ending in August 2010. More than 200 stakeholders participated in these meetings, and in addition, nearly 300 stakeholders attended as observers. The proposed rule will explore requiring employers to provide their employees with opportunities to participate in the development and implementation of an injury and illness prevention program, including a systematic process to proactively and continuously address workplace safety and health hazards. This rule will involve planning, implementing, evaluating, and improving processes and activities that promote worker safety and health, and address the needs of special categories of workers (such as youth, aging, and immigrant workers). OSHA's efforts to protect workers under the age of 18 will be undertaken in cooperation with the Department's Wage and Hour Division, which has responsibility for enforcing the child labor provisions of the Fair Labor Standards Act. OSHA has substantial evidence showing that employers that have implemented similar injury and illness prevention programs have significantly reduced injuries and illnesses in their workplaces. The new rule would build on OSHA's existing Safety and Health Program Management Guidelines and lessons learned from successful approaches and best practices that have been applied by companies participating in OSHA's Voluntary Protection Program and Safety and Health Achievement Recognition Program, and similar industry and international initiatives.

Addressing Targeted Hazards

Silica

In order to target one of the most serious hazards workers face, OSHA is proposing to address worker exposures to crystalline silica through the promulgation and enforcement of a comprehensive health standard. Exposure to silica causes silicosis, a debilitating respiratory disease, and may cause cancer, other chronic respiratory diseases, and renal and autoimmune disease as well. Over 2 million workers are exposed to crystalline silica in general industry, construction, and maritime industries and workers are often exposed to levels that exceed current OSHA permissible limits, especially in the construction industry where workers are exposed at levels that exceed current limits by several fold. It has been estimated that between 3,500 and 7,000 new cases of silicosis arise each year in the U.S., and that 1,746 workers died of silicosis between 1996 and 2005. Reducing these hazardous exposures through promulgation and enforcement of a comprehensive health standard will contribute to OSHA's goal of reducing occupational fatalities and illnesses. As a part of the Secretary's strategy for securing safe and healthy workplaces, MSHA will also utilize information provided by OSHA to undertake regulatory action related to silica exposure in mines.

Backing Operations

In order to target one of most serious hazards that construction workers face, OSHA is proposing to address worker exposures to the dangers inherent in backing operations through the promulgation and enforcement of a revised construction standard. NIOSH reports that half of the fatalities involving construction equipment occur while the equipment is backing. Backing accidents cause 500 deaths and 15,000 injuries per year. Emerging technologies in the field of backing operations include after market devices, such as camera, radar, and sonar, to help monitor the presence of workers on foot in blind areas, and new monitoring technology, such as tag-based warning systems that use radio frequency (RFID) and magnetic field generators on equipment to detect electronic tags worn by workers. OSHA is developing this proposal in consultation with MSHA, which will issue an Emergency Temporary Standard concerning Proximity Detection.

Openness and Transparency

Hazard Communication

Hearings on OSHA's proposal to modify its Hazard Communication standard have helped the agency to promote transparency in the communication of chemical hazard information. These hearings gathered information to assist OSHA in creating consistency between its current Hazard Communication standard (HCS) and the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals (GHS). This rulemaking

involves changing the criteria for classifying health and physical hazards to require information regarding the severity of the hazard, a standardized order of information for safety data sheets, and adopting standardized labeling requirements that would be understandable for low-literacy workers or those who do not speak English. The HCS covers over 945,000 hazardous chemical products in 7 million American workplaces and gives workers the ''right to know'' about chemical hazards to which they are exposed. OSHA and other Federal agencies have participated in long-term international negotiations to develop the GHS. Revising the HCS to be consistent with the GHS is expected to significantly improve the communication of hazards to workers in American workplaces, reducing exposures to hazardous chemicals, and reducing occupational illnesses and fatalities.

Modernizing Recordkeeping

In the first half of this year, OSHA held informal meetings to gather information from experts and stakeholders regarding the modification of its current injury and illness data collection system that will help the agency, employers, employees, researchers, and the public prevent workplace injuries and illnesses, as well as support President Obama's Open Government Initiative. Under the proposed rule, OSFIA will explore increasing its legal authority to require employers to electronically submit to the Agency any data required by part 1904 (Recording and Reporting Occupational Injuries). In addition it will set ongoing electronic submission requirements of data for a defined set of establishments. This two-part rule will give OSHA the flexibility to define the scope and frequency of data collection without having to undertake additional rulemakings. With OMB approval, OSHA will be able to conduct data collections ranging from the annual collection of data from a handful of employers to the real-time collection of all part 1904 data from all covered employers. In addition, OSHA will be able to request additional data elements that employers are not required to maintain, such as data on race and ethnicity, as a non-mandatory component of a given data collection. OSHA learned from stakeholders that most large employers already maintain their part 1904 data electronically; as a result, electronic submission will constitute a minimal burden on these employers, while providing a wealth of data to help OSHA, employers, employees, researchers, and the public prevent workplace injuries and illnesses.

Mine Safety and Health Administration (MSHA)

The Mine Safety and Health Administration is the worker protection agency focused on the prevention of death, disease, and injury from mining and the promotion of safe and healthful workplaces for the Nation's miners. The Department believes that every worker has a right to a safe and healthy workplace. Workers should never have to sacrifice their lives for their livelihood, and all workers deserve to come home to their families at the end of their shift safe and whole. MSHA's approach to reducing workplace fatalities and injuries includes promulgating and enforcing mandatory health and safety standards.

Plan/Prevent/Protect

Safety and Health Management Programs for Mines

Year after year, many mines experience low injury and illness rates and low violation rates. For these mine operators, preventing harm to their miners is more than compliance with safety and health requirements; it reflects the embodiment of a culture of safety—from the CEO to the miner. This culture of safety derives from a commitment to an effective, comprehensive safety and health management program. Since compliance with safety and health standards is the responsibility of mine operators, MSHA plans to publish a proposed rule to require mine operators to develop comprehensive Safety and Health Management Programs for Mines. MSHA believes that operators with effective safety and health management programs would identify and correct hazards in a more timely manner, resulting in fewer accidents, injuries and illnesses. To help develop the proposal, MSHA held public meetings and gathered information from worker organizations, industry, academia, government, and safety and health professionals about model safety and health programs.

Examinations of Work Areas in Underground Coal Mines for Violations of Mandatory Health or Safety Standards

To complement the safety and health management programs proposed rule, MSHA also plans to issue a proposed rule to address section 303(d) of the Federal Mine Safety and Health Act that requires mine operators to conduct examinations, in areas where miners work or travel, for violations of mandatory health or safety standards. The proposal would assure that underground coal mine operators find and fix violations of mandatory health or safety standards, thereby improving health and safety for miners.

Pattern of Violations

MSHA has determined that the existing pattern criteria and procedures contained in 30 CFR part 104 do not reflect the statutory intent for section 104(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act). The legislative history of the Mine Act explains that Congress intended the pattern of violations to be an enforcement tool for operators who have demonstrated a disregard for the health and safety of miners. These mine operators, who have a chronic history of persistent significant and substantial (S&S) violations, needlessly expose miners to the same hazards again and again. This indicates a serious safety and health management problem at a mine. The goal of the pattern of violations proposed rule is to compel operators to manage health and safety conditions so that the root causes of S&S violations are found and fixed before they become a hazard to miners. The proposal would reflect statutory intent, simplify the pattern of violations criteria, and improve consistency in applying the pattern of violations criteria.

Addressing Targeted Hazards

Maintenance of Incombustible Content of Rock Dust in Underground Coal Mines

To help prevent explosion hazards, MSHA issued an emergency temporary standard (ETS) in response to the grave danger that miners in underground bituminous coal mines face when accumulations of coal dust are not made inert. MSHA concluded from investigations of mine explosions and other reports that immediate action was necessary to protect miners. Accumulations of coal dust can ignite, resulting in an explosion, or after an explosion, accumulations can propagate, increasing the severity of explosions. The ETS requires mine operators to increase the incombustible content of combined coal dust, rock dust, and other dust to at least 80 percent in underground bituminous coal mines. The ETS strengthens the protections for miners by reducing both the potential for and the severity of coal mine explosions.

Regulating Crystalline Silica Exposure

The Agency's regulatory actions also exemplify a commitment to protecting the most vulnerable populations while assuring broad-based compliance. Health hazards are pervasive in both coal and metal/nonmetal mines (including surface and underground mines) and large and small mines. As mentioned previously, as part of the Secretary's strategy for securing safe and healthy workplaces, both MSHA and OSHA will be undertaking regulatory actions related to silica. Overexposure to crystalline silica can result in some miners developing silicosis, an irreversible but preventable lung disease, which ultimately may be fatal. In its proposed rule, MSHA plans to follow the recommendation of the Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers, National Institute for Occupational Safety and Health (NIOSH), and other groups to address the exposure limit for respirable crystalline silica. As another example of intra-departmental collaboration, MSHA intends to consider OSHA's work on the health effects of occupational exposure to silica and OSHA's risk assessment in developing the appropriate standard for the mining industry.

Lowering Miners' Exposure to Coal Mine Dust, including Continuous Personal Dust Monitors

MSHA will continue its regulatory action related to preventing Black Lung disease. Data from the NIOSH indicate increased prevalence of coal workers pneumoconiosis (CWP) ''clusters'' in several geographical areas, particularly in the Southern Appalachian Region. MSHA published a notice of proposed rulemaking to address continued risk to coal miners from exposure to respirable coal mine dust. This regulatory action is part of MSHA's Comprehensive Black Lung Reduction Strategy for reducing miners' exposure to respirable dust. This strategy includes enhanced enforcement, education and training, and health outreach and collaboration. The major provisions of the proposal would lower the existing exposure limit from 2.0 mg/m3 to 1.0 mg/m3 over a 2-year phase-in period, provide for single full-shift compliance sampling under both mine operator and MSHA inspector sampling programs, and establish sampling requirements for use of the continuous personal dust monitors.

Proximity Detection Systems

MSHA will issue an emergency temporary standard (ETS) to address the grave danger that miners face when working near mobile equipment in underground mines. MSHA has concluded, from investigations of accidents involving mobile equipment and other reports, that immediate action is necessary to protect miners. To date, in 2010, there have been 5 fatalities resulting from crushing and pinning accidents. Mobile equipment can pin, crush, or strike a miner working near the equipment. Proximity detection technology can prevent these types of accidents. Proximity detection systems can be installed on mining machinery to detect the presence of personnel or equipment within a certain distance of the machine. The ETS would strengthen the protection for underground miners by reducing the potential of pinning, crushing or striking hazards associated with working close to mobile equipment. As a part of the Secretary's strategy for securing safe and healthy workplaces, OSHA will also undertake regulatory action related to reducing injuries and fatalities to workers in close proximity to moving equipment and vehicles.

Wage and Hour Division (WHD)

The Wage and Hour Division is responsible for administering and enforcing a number of laws that establish the minimum standards for wages and working conditions in the United States. Collectively, these labor standards cover most private, state, and local government employment.

Plan/Prevent/Protect

Right To Know Under the Fair Labor Standards Act

WHD intends to publish a proposed rule updating the recordkeeping regulation issued under the Fair Labor Standards Act (FLSA) to assist employers in planning to protect workers' entitlement to wages that they have earned and bring greater transparency and openness to the workplace. The proposed rule would address notification of workers' status as employees or some other status such as independent contractors, and whether that worker is entitled to the protections of the FLSA. The proposed rulemaking would also explore requiring employers to provide a wage statement each pay period to their employees. This greater transparency will provide workers with essential information about their employment status and earnings, consistent with the Secretary's strategic vision. This greater transparency will in turn better ensure compliance by regulated entities and assist the Department with its enforcement efforts. This initiative contributes to the Department's efforts to prevent misclassification that denies workers employment law protections to which they are entitled.

As part of this Departmentwide initiative, OSHA's Injury and Illness Prevention Program NPRM and OFCCP's NPRM on Construction Contractor Affirmative Action Requirements, propose to also address employer analyses and worker notification as to whether an individual is an employee or is an independent business, volunteer, or trainee.

Office of Federal Contract Compliance Programs (OFCCP)

Through the work of the Office of Federal Contract Compliance Programs, DOL ensures that the contractors and sub-contractors doing business at over 200,000 establishments provide equal employment opportunities—a fair and diverse workplace. OFCCP ensures workers are recruited, hired, trained, promoted, terminated, and compensated in a non-discriminatory manner by Federal contractors and helps workers in the Federal contractor sector by strengthening affirmative action and by combating discrimination on the basis of race, color, religion, sex, national origin, disability, or status as a protected veteran.

Construction Contractor Affirmative Action Requirements

OFCCP will publish a proposed rule that would enhance the effectiveness of the affirmative action program requirements for Federal and federally assisted construction contractors and subcontractors. The proposed rule would strengthen the regulations that set forth the actions construction contractors are required to take to implement their affirmative action programs particularly in the areas of recruitment, training, and apprenticeships. OFCCP is coordinating with the Employment and Training Administration (ETA), which is developing a proposed regulation revising the equal opportunity regulatory framework under the National Apprenticeship Act.

Employee Benefits Security Administration (EBSA)

The Employee Benefits Security Administration (EBSA) is responsible for administering and enforcing the fiduciary, reporting and disclosure, and health coverage provisions of title I of the Employee Retirement Income Security Act of 1974 (ERISA). This includes recent amendments and additions to ERISA enacted in the

Pension Protection Act of 2006, as well as new health coverage provisions under the Patient Protection and Affordable Care Act of 2010 (the Affordable Care Act). EBSA's regulatory plan initiatives are intended to improve health benefits and retirement security for workers in every type of job at every income level. EBSA is charged with protecting approximately 150 million Americans covered by an estimated 708,000 private retirement plans, 2.6 million health plans, and similar numbers of other welfare benefit plans which together hold $5.2 trillion in assets.

EBSA will continue to issue guidance implementing the health reform provisions of the Affordable Care Act and other laws, such as the Mental Health Parity and Addiction Equity Act, to help provide better quality health care for American workers and their families. EBSA's regulations reduce discrimination in health coverage, promote better access to quality coverage, and protect the ability of individuals and businesses to keep their current health coverage. Many regulations are joint rulemakings with the Departments of Health and Human Services and the Treasury.

Using regulatory changes to produce greater openness and transparency is an integral part of EBSA's contribution to a Departmentwide compliance strategy. These efforts will not only enhance EBSA's enforcement toolbox but will encourage greater levels of compliance by the regulated community and enhance awareness among workers of their rights and benefits. Several proposals from the EBSA agenda expand disclosure requirements, substantially enhancing the availability of information to employee benefit plan participants and beneficiaries and employers, and strengthening the retirement security of America's workers.

Health Reform Implementation

These regulations require better disclosure to participants and beneficiaries regarding their health plan coverage. These disclosures must now provide new and better descriptions regarding:

Certain enrollment opportunities and access to health coverage; rights to internal claims and appeals, and external review of health plan denials; access to providers; and a group health plan's status as a grandfathered health plan, which affects consumer protections under the Patient Protection and Affordable Care Act.

Enhancing participant protections

EBSA recently proposed amendments to its regulations to clarify the circumstances under which a person will be considered a ''fiduciary'' when providing investment advice to employee benefit plans and their participants and beneficiaries of such plans. The amendments would take into account current practices of investment advisers and the expectations of plan officials and participants who receive investment advice. This initiative is intended to assure retirement security for workers in all jobs regardless of income level by ensuring that financial advisers and similar persons are required to meet ERISA's strict standards of fiduciary responsibility.

Lifetime Income Options

In February 2010, EBSA published a request for information concerning steps it can take by regulation, or otherwise, to encourage the offering of lifetime annuities or similar lifetime benefits distribution options for participants and beneficiaries of defined contribution plans. EBSA recently held a hearing with the Department of the Treasury and Internal Revenue Service to further explore these possibilities during the fall 2010 regulatory cycle. This initiative is intended to assure retirement security for workers in all jobs regardless of income level by helping to ensure that participants and beneficiaries have the benefit of their plan savings throughout retirement.

Promoting Openness and Transparency

In addition to its health care reform and participant protection initiatives, EBSA is pursuing a regulatory program that, as reflected in the Unified Agenda, is designed to encourage, foster, and promote openness, transparency, and communication with respect to the management and operations of pension plans, as well as participant rights and benefits under such plans. Among other things, EBSA will be issuing a final rule that will ensure that the participants and beneficiaries in participant-directed individual account plans are provided the information they need, including information about plan and investment-related fees and expenses, to make informed decisions about the management of their individual accounts and the investment of their retirement savings (RIN 1210-AB07); EBSA also will be issuing a proposed rule addressing the requirement that administrators of defined benefit pension plans annually disclose the funding status of their plan to the plan's participants and beneficiaries (RIN l210-AB18). EBSA's Unified Agenda also includes the publication of a proposed rule requiring the automatic furnishing of a statement to pension plan participants informing them of their accrued and vested pension benefits, as well as other information pertinent to their retirement security (RIN 1210-AB20). In addition, EBSA will be amending the disclosure requirements applicable to plan investment options, including Qualified Default Investment Alternatives, to better ensure that participants understand the operations and risks associated with investments in target date funds (RIN 1210-AB38). A complete listing of EBSA's regulatory initiatives (both Plan and non-Plan items) is provided in the Unified Agenda portion of this document.

Office of Labor-Management Standards (OLMS)

The Office of Labor-Management Standards (OLMS) administers and enforces most provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). The LMRDA promotes labor-management transparency by requiring unions, employers, labor-relations consultants, and others to file reports that are publicly available. The LMRDA includes provisions protecting union member rights to participate in their union's governance, to run for office and fully exercise their union citizenship, as well as procedural safeguards to ensure free and fair union elections. Besides enforcing these provisions, OLMS also ensures the financial accountability of unions, their officers and employees, through enforcement and voluntary compliance efforts. Because of these activities, OLMS better ensures that workers have a more effective voice in the governance of their unions, which in turn affords them a more effective voice in their workplaces. OLMS also administers certain provisions of Executive Order 13496 that require Federal contractors to notify their employees concerning their rights under Federal labor laws.

Openness and Transparency

Persuader Agreements: Employer and Labor Consultant Reporting under the LMRDA

OLMS is proposing a regulatory initiative to provide workers with information critical to their effective participation in the workplace, both as union members and as employees. OLMS intends to propose regulations to better implement the public disclosure objectives of the LMRDA in situations where an employer engages a consultant

in order to persuade employees concerning their rights to organize and bargain collectively. Under LMRDA section 203, an employer must report any agreement or arrangement with a consultant to persuade employees concerning their rights to organize and collectively bargain, or to obtain certain information concerning the activities of employees or a labor organization in connection with a labor dispute involving the employer. The consultant is also required to report such an agreement or arrangement with an employer. Statutory exceptions to these reporting requirements are set forth in LMRDA section 203(c), which provides, in part, that employers and consultants are not required to file a report by reason of the consultant's giving or agreeing to give ''advice'' to the employer. The Department is reconsidering the current policy concerning the scope of the ''advice exception.'' When workers have the necessary information about arrangements that have been made by their employer to persuade them whether or not to form, join or assist a union, they are better able to make a more informed choice about representation.

Employment and Training Administration (ETA)

The Employment and Training Administration (ETA) administers and oversees programs that prepare workers for good jobs at good wages by providing high quality job training, employment, labor market information, and income maintenance services through its national network of One-Stop centers. The programs within ETA promote pathways to economic independence for individuals and families. Through several laws, ETA is charged with administering numerous employment and training programs designed to assist the American worker in developing the knowledge, skills, and abilities that are sought after in the 21st century's economy.

Openness and Transparency

Temporary Non Agricultural Employment of H-2B Aliens in the United States

As part of the Department's labor certification responsibilities, ETA certifies whether U.S. workers capable of performing the jobs for which employers are seeking foreign workers are available and whether the employment of foreign workers will adversely affect the wages and working conditions of U.S. workers similarly employed. Through the Wage and Hour Division (WHD), the Department enforces compliance with the conditions of an H-2B petition and Department of Labor-approved temporary labor certification.

The proposed rule seeks to ensure that only those employers who demonstrate a real temporary need for foreign workers will have access to the H-2B program. The proposed rule also will seek to provide U.S. workers with greater access to the jobs employers wish to fill with temporary H-2B workers through more robust recruitment by employers to demonstrate the unavailability of U.S. workers and through the creation of a national, electronic job registry. In addition, the Department is reviewing the current wage determination methodology to ensure that wages are not being adversely affected across industries and occupations. The proposed rule will explore strengthening existing worker protections, establishing new protections, and enhancing ETA program integrity measures and WHD enforcement to ensure adequate protections for both U.S. and H-2B workers. The proposal will include greater transparency and openness to provide U.S. workers with greater information and access to the job opportunities.

Addressing Targeted Concerns of Workers

Equal Employment Opportunity in Apprenticeship and Training, Amendment of Regulations

The revision of the National Apprenticeship Act Equal Opportunity in Apprenticeship and Training (EEO) regulations is a critical element in the Department's vision to promote and expand registered apprenticeship opportunities in the 21st Century while safeguarding the welfare and safety of all apprentices. In October 2008, ETA issued a final rule updating 29 CFR part 29, the regulatory framework for registration of apprenticeship programs and apprentices, and administration of the National Apprenticeship System. The companion EEO regulations, 29 CFR part 30, have not been amended since 1978. ETA proposes to update part 30 EEO in the Apprenticeship and Training regulations to ensure that they act in concert with the 2008 revised part 29 rule. The proposed EEO regulations also will further Secretary Solis' vision of good jobs for everyone by ensuring that apprenticeship program sponsors develop and fully implement affirmative action efforts that provide equal opportunity for all applicants to apprenticeship and apprentices, regardless of race, gender, national origin, or disability. ETA is coordinating with OFCCP, which is developing a proposed regulation that would enhance the effectiveness of the affirmative action program requirements for Federal and federally assisted construction contractors and subcontractors.

DOL—Office of Federal Contract Compliance Programs (OFCCP)

PROPOSED RULE STAGE

94. CONSTRUCTION CONTRACTOR AFFIRMATIVE ACTION REQUIREMENTS

Priority:

Other Significant

Legal Authority:

sec 201, 202, 205, 211, 301, 302, and 303 of EO 11246, as amended; 30 FR 12319; 32 FR 14303, as amended by EO 12086

CFR Citation:

41 CFR 60–1; 41 CFR 60–4

Legal Deadline:

None

Abstract:

This Notice of Proposed Rulemaking (NPRM) would revise the regulations in 41 CFR part 60-4 implementing the affirmative action requirements of Executive Order 11246 that are applicable to Federal and federally assisted construction contractors. The NPRM will strengthen and enhance the effectiveness of the affirmative action program requirements for Federal and federally-assisted construction contractors and subcontractors, particularly in the area of recruitment and job training.

Statement of Need:

The regulations implementing construction contractor affirmative action obligations under Executive Order 11246, as amended, were last revised in 1980. Recent data show that disparities in the representation of women and racial minorities continue to exist in on-site construction occupations in the construction industry. The NPRM would remove outdated regulatory provisions, propose a new method for establishing affirmative action goals, and propose

other revisions to the affirmative action requirements that reflect the realities of the labor market and employment practices in the construction industry today.

Summary of Legal Basis:

This action is not required by statute or court order. Legal Authority: Sections 201, 202, 205, 211, 301, 302, and 303 of E.O. 11246, as amended, 30 FR 12319: 32 FR 14303, as amended by E.O. 12086.

Alternatives:

Regulatory alternatives will be addressed as the NPRM is developed

Anticipated Cost and Benefits:

There may be some additional costs to contractors as a result of the increased scope of required actions. The benefits would likely include increased diversity in construction workplaces and increased opportunities for women and minorities to get on-site construction jobs. More detailed cost and benefit analyses will be made as the NPRM is developed.

Risks:

Failure to provide updated regulations may impede the equal opportunity rights of some workers in protected classes.

Timetable:

Action	Date	FR Cite
NPRM	07/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

Federalism:

Undetermined

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Related RIN: Previously reported as 1215–AB81

RIN: 1250–AA01

DOL—Office of Labor-Management Standards (OLMS)

PROPOSED RULE STAGE

95. PERSUADER AGREEMENTS: EMPLOYER AND LABOR RELATIONS CONSULTANT REPORTING UNDER THE LMRDA

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

29 USC 433; 29 USC 438

CFR Citation:

29 CFR 405; 29 CFR 406

Legal Deadline:

None

Abstract:

The Department intends to publish notice and comment rulemaking seeking consideration of a revised interpretation of section 203(c) of the Labor-Management Reporting and Disclosure Act (LMRDA). That statutory provision creates an ''advice'' exemption from reporting requirements that apply to employers and other persons in connection with persuading employees about the right to organize and bargain collectively. A proposed revised interpretation would narrow the scope of the advice exemption.

Statement of Need:

The Department of Labor is proposing a regulatory initiative to better implement the public disclosure objectives of the Labor-Management Reporting and Disclosure Act (LMRDA) regarding employer-consultant agreements to persuade employees concerning their rights to organize and bargain collectively. Under LMRDA section 203, an employer must report any agreement or arrangement with a third party consultant to persuade employees as to their collective bargaining rights or to obtain certain information concerning the activities of employees or a labor organization in connection with a labor dispute involving the employer. The consultant also is required to report concerning such an agreement or arrangement with an employer. Statutory exceptions to these reporting requirements are set forth in LMRDA section 203(c), which provides, in part, that employers and consultants are not required to file a report by reason of the consultant's giving or agreeing to give ''advice'' to the employer. The Department believes that its current policy concerning the scope of the ''advice exception'' is overbroad and that a narrower construction would better allow for the employer and consultant reporting intended by the LMRDA. Regulatory action is needed to provide workers with information critical to their effective participation in the workplace.

Summary of Legal Basis:

This proposed rulemaking is authorized under U.S.C. sections 433 and 438 and applies to regulations at 29 CFR part 405 and 29 CFR part 406.

Alternatives:

Alternatives will be developed and considered in the course of notice and comment rulemaking.

Anticipated Cost and Benefits:

Anticipated costs and benefits of this proposed regulatory initiative have not been assessed and will be determined at a later date, as appropriate.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

URL For More Information:

www.olms.dol.gov

URL For Public Comments:

www.regulations.gov

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Related RIN: Previously reported as 1215–AB79

RIN: 1245–AA03

DOL—Wage and Hour Division (WHD)

PROPOSED RULE STAGE

96. RIGHT TO KNOW UNDER THE FAIR LABOR STANDARDS ACT

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

29 USC 211(c)

CFR Citation:

29 CFR 516

Legal Deadline:

None

Abstract:

The Department of Labor proposes to update the recordkeeping regulations under the Fair Labor Standards Act in order to enhance the transparency and disclosure to workers of their status as the employer's employee or some other status, such as an independent contractor, and if an employee, how their pay is computed. The Department also proposes to clarify that the mandatory manual preparation of ''homeworker'' handbooks applies only to employers of employees performing homework in the restricted industries. The title of this proposed rule has changed to better reflect the purpose of this action.

Statement of Need:

The recordkeeping regulation issued under the Fair Labor Standards Act (FLSA), 29 CFR part 516, specifies the scope and manner of records covered employers must keep that demonstrate compliance with minimum wage, overtime, and child labor requirements under the FLSA, or the records to be kept that confirm particular exemptions from some of the Act's requirements may apply. This proposal intends to update the recordkeeping requirements to foster more openness and transparency in demonstrating employers' compliance with applicable requirements to their workers, to better ensure compliance by regulated entities, and to assist in enforcement. In addition, the proposal intends to update the requirements for live-in domestic employees and, to clarify that the mandatory manual preparation of ''homeworker'' handbooks applies only to employers of employees performing homework in the restricted industries.

Summary of Legal Basis:

These regulations are authorized by section 11 of the Fair Labor Standards Act, 29 U.S.C. 211.

Alternatives:

Alternatives will be developed in considering proposed revisions to the current recordkeeping requirements. The public will be invited to provide comments on the proposed revisions and possible alternatives.

Anticipated Cost and Benefits:

The Department will prepare estimates of the anticipated costs and benefits associated with the proposed rule.

Risks:

This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Local, State, Tribal

Federalism:

Undetermined

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Related RIN: Previously reported as 1215–AB78

RIN: 1235–AA04

DOL—Employment and Training Administration (ETA)

PROPOSED RULE STAGE

97. LABOR CERTIFICATION PROCESS AND ENFORCEMENT FOR TEMPORARY EMPLOYMENT IN OCCUPATIONS OTHER THAN AGRICULTURE OR REGISTERED NURSING IN THE UNITED STATES (H–2B WORKERS)

Priority:

Other Significant

Legal Authority:

8 USC 1101(a)(15)(H)(ii)(B)); 8 USC 1184(c)(1); 8 CFR 214.2(h)

CFR Citation:

20 CFR 655

Legal Deadline:

None

Abstract:

The Department of Homeland Security (DHS) regulations require employers to apply for a temporary labor certification from the Department of Labor before H-2B visas may be approved. DOL certifies that there are not sufficient U.S. worker(s) who are capable of performing the temporary services or labor at the time of an application for a visa, and that the employment of the H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S. workers. This regulation proposes to re-engineer the H-2B program in order to enhance transparency and strengthen program integrity and protections of both U.S. workers and H-2B workers.

Statement of Need:

The Department has determined that a new rulemaking effort is necessary for

the H-2B program. The policy underpinnings of the current regulation, e.g., streamlining the H-2B process to defer many determinations of program compliance until after an application has been adjudicated, do not provide an adequate level of protection for either U.S. or foreign workers. The proposed rule seeks to enhance worker protections and increase the availability of job opportunities to qualified U.S. workers.

Summary of Legal Basis:

The Department of Labor's authority to revise these regulations derives from 8 U.S.C. 1101(a)(15)(H)(ii)(B) and 8 U.S.C. 1184(c)(1) and 8 CFR 214.2(h).

Alternatives:

The public will be afforded an opportunity to provide comments on the proposed regulatory changes when the Department publishes the NPRM in the Federal Register. A final rule will be issued after analysis of, and response to, public comments.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs of this regulatory action are under development. The Department of Labor is seeking information on potential additional or actual costs from employers and other interested parties through the NPRM in order to better assess the costs and benefits of the proposed provisions of the program. The proposed changes are thought to raise ''novel legal or policy issues'' but are not economically significant within the context of Executive Order 12866 and are not a ''major rule'' under section 804 for the Small Business Regulatory Enforcement Fairness Act.

Risks:

This action does not affect the public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

State

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RIN: 1205–AB58

DOL—ETA

98. EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP AND TRAINING, AMENDMENT OF REGULATIONS

Priority:

Other Significant

Legal Authority:

sec 1, 50 Stat 664, as amended (29 USC 50; 40 USC 276c; 5 USC 301); Reorganization Plan No 14 of 1950, 64 Stat 1267 (5 USC app p 534)

CFR Citation:

29 CFR 30 (Revision)

Legal Deadline:

None

Abstract:

Revisions to the equal opportunity regulatory framework for the National Apprenticeship Act are a critical element in the Department's vision to promote and expand Registered Apprenticeship opportunities in the 21st century while continuing to safeguard the welfare and safety of apprentices. In October 2008, the Agency issued a Final Rule updating regulations for Apprenticeship Programs and Labor Standards for Registration. These regulations, codified at title 29 Code of Federal Regulations (CFR) part 29, had not been updated since 1977. The companion regulations, 29 CFR part 30, Equal Employment Opportunity (EEO) in Apprenticeship and Training, have not been amended since 1978.

The Agency now proposes to update 29 CFR part 30 to ensure that the National Registered Apprenticeship System is consistent and in alignment with EEO law, as it has developed since 1978, and recent revisions to title 29 CFR part 29. This second phase of regulatory updates will ensure that Registered Apprenticeship is positioned to continue to provide economic opportunity for millions of Americans while keeping pace with these new requirements.

Statement of Need:

Federal regulations for Equal Employment Opportunity (EEO) in Apprenticeship and Training have not been updated since 1978. Updates to these regulations are necessary to ensure that DOL regulatory requirements governing the National Registered Apprenticeship System are consistent with the current state of EEO law, the ADA, and recent revisions to title 29 CFR part 29.

Summary of Legal Basis:

These regulations are authorized by the National Apprenticeship Act of 1937 (29 U.S.C. 50) and the Copeland Act (40 U.S.C. 276c). These regulations will set forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor or in State Apprenticeship Agencies recognized by the U.S. Department of Labor.

Alternatives:

The public will be afforded an opportunity to provide comments on the proposed amendment to Apprenticeship EEO regulations when the Department publishes a Notice of Proposed Rulemaking (NPRM) in the Federal Register. A Final Rule will be issued after analysis and incorporation of public comments to the NRPM.

Anticipated Cost and Benefits:

The proposed changes are thought to raise ''novel legal or policy issue'' but are not economically significant within the context of Executive Order 12866 and are not a ''major rule'' under Section 804 of the Small Business Regulatory Enforcement Fairness Act.

Risks:

This action does not affect the public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	07/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, State, Tribal

Federalism:

This action may have federalism implications as defined in EO 13132.

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RIN: 1205–AB59

DOL—Employee Benefits Security Administration (EBSA)

PRERULE STAGE

99. LIFETIME INCOME OPTIONS FOR PARTICIPANTS AND BENEFICIARIES IN RETIREMENT PLANS

Priority:

Other Significant

Legal Authority:

29 USC 1135; ERISA sec 505

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

This initiative will explore what steps, if any, that the Department could or should take, by regulation or otherwise, to enhance the retirement security of American workers by facilitating access to and use of lifetime income or income arrangements designed to provide a stream of income after retirement.

Statement of Need:

With a continuing trend away from defined benefit plans to defined contribution plans, employees are not only increasingly responsible for the adequacy of their retirement savings, but also for ensuring that their savings last throughout their retirement. Employees may benefit from access to and use of lifetime income or other arrangements that will reduce the risk of running out of funds during the retirement years. However, both access to and use of such arrangements in defined contribution plans is limited. The Department, taking into consideration recommendations of the ERISA Advisory Council and others, intends to explore what steps, if any, it could or should take, by regulation or otherwise, to enhance the retirement security of workers by increasing access to and use of such arrangements.

Summary of Legal Basis:

Section 505 of ERISA provides that the Secretary may prescribe such regulations as she finds necessary and appropriate to carry out the provisions of title I of the Act.

Alternatives:

Alternatives will be considered following a determination of the scope and nature of the regulatory guidance needed by the public.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs and benefits will be developed, as appropriate, following a determination regarding the alternatives to be considered.

Timetable:

Action	Date	FR Cite
RFI	02/02/10	75 FR 5253
RFI Comment Period End	05/03/10	
Public Hearing Notice	08/10/10	75 FR 48367
Public Hearing	09/14/10	
Review Public Record	04/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

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RIN: 1210–AB33

DOL—EBSA

PROPOSED RULE STAGE

100. DEFINITION OF ''FIDUCIARY''

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

29 USC 1002; ERISA sec 3(21); 29 USC 1135; ERISA sec 505

CFR Citation:

29 CFR 2510.3–21(c)

Legal Deadline:

None

Abstract:

This rulemaking would amend the regulatory definition of the term ''fiduciary'' set forth at 29 CFR 2510.3-21 (c) to more broadly define as employee benefit plan fiduciaries persons who render investment advice to plans for a fee within the meaning of section 3(21) of ERISA. The amendment would take into account current practices of investment advisers and the expectations of plan officials and participants who receive investment advice.

Statement of Need:

This rulemaking is needed to bring the definition of ''fiduciary'' into line with investment advice practices and to recast the current regulation to better reflect relationships between investment advisers and their employee benefit plan clients. The current regulation may inappropriately limit the types of investment advice relationships that should give rise to fiduciary duties on the part of the investment adviser.

Summary of Legal Basis:

Section 505 of ERISA provides that the Secretary may prescribe such regulations as she finds necessary and appropriate to carry out the provisions of title I of the Act. Regulation 29 CFR 2510.3-21(c) defines the term fiduciary for certain purposes under section 3(21) of ERISA.

Alternatives:

Alternatives will be considered following a determination of the scope and nature of the regulatory guidance needed by the public.

Anticipated Cost and Benefits:

Preliminary estimates of the anticipated costs and benefits will be developed, as appropriate, following a determination regarding the alternatives to be considered.

Timetable:

Action	Date	FR Cite
NPRM	10/22/10	75 FR 65263
NPRM Comment Period End	01/20/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

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RIN: 1210–AB32

DOL—Mine Safety and Health Administration (MSHA)

PROPOSED RULE STAGE

101. RESPIRABLE CRYSTALLINE SILICA STANDARD

Priority:

Other Significant

Legal Authority:

30 USC 811; 30 USC 813

CFR Citation:

30 CFR 56 to 57; 30 CFR 70 to 72; 30 CFR 90

Legal Deadline:

None

Abstract:

Current standards limit exposures to quartz (crystalline silica) in respirable dust. The coal mining industry standard is based on the formula 10 mg/m3 divided by the percentage of quartz where the quartz percent is greater than 5 percent calculated as an MRE equivalent concentration. The metal and nonmetal mining industry standard is based on the 1973 American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values formula: 10 mg/m3 divided by the percentage of quartz plus 2. Overexposure to crystalline silica can result in some miners developing silicosis, an irreversible but preventable lung disease, which ultimately may be fatal. Both formulas are designed to limit exposures to 0.1 mg/m3 (100 ug) of silica. The Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers made several recommendations related to reducing exposure to silica. NIOSH recommends a 50 ug/m3 exposure limit for respirable crystalline silica. MSHA will publish a proposed rule to address miners' exposure to respirable crystalline silica.

Statement of Need:

MSHA standards are outdated; current regulations may not protect workers from developing silicosis. Evidence indicates that miners continue to develop silicosis. MSHA's proposed regulatory action exemplifies the agency's commitment to protecting the most vulnerable populations while assuring broad-based compliance. MSHA will regulate based on sound science to eliminate or reduce the hazards with the broadest and most serious consequences. MSHA intends to use OSHA's work on the health effects and risk assessment, adapting it as necessary for the mining industry.

Summary of Legal Basis:

Promulgation of this standard is authorized by sections 101 and 103 of the Federal Mine Safety and Health Act of 1977.

Alternatives:

This rulemaking would improve health protection from that afforded by the existing standards. MSHA will consider alternative methods of addressing miners' exposures based on the capabilities of the sampling and analytical methods.

Anticipated Cost and Benefits:

MSHA will prepare estimates of the anticipated costs and benefits associated with the proposed rule.

Risks:

For over 70 years, toxicology information and epidemiological studies have shown that exposure to respirable crystalline silica presents potential health risks to miners. These potential adverse health effects include simple silicosis and progressive massive fibrosis (lung scarring). Evidence indicates that exposure to silica may cause cancer. MSHA believes that the health evidence forms a reasonable basis for reducing miners' exposure to respirable crystalline silica.

Timetable:

Action	Date	FR Cite
NPRM	07/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Local, State

URL For More Information:

www.msha.gov/regsinfo.htm

URL For Public Comments:

www.regulations.gov

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RIN: 1219–AB36

DOL—MSHA

102. LOWERING MINERS' EXPOSURE TO COAL MINE DUST, INCLUDING CONTINUOUS PERSONAL DUST MONITORS

Priority:

Other Significant

Legal Authority:

30 USC 811; 30 USC 813(h)

CFR Citation:

30 CFR 70; 30 CFR 71; 30 CFR 72; 30 CFR 75; 30 CFR 90

Legal Deadline:

None

Abstract:

The Federal Coal Mine Health and Safety Act of 1969 established the first comprehensive respirable dust

standards for coal mines. These standards were designed to reduce the incidence of coal workers' pneumoconiosis (CWP) or (black lung) and silicosis and eventually eliminate these diseases. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners continue to be at risk of developing occupational lung disease, according to the National Institute for Occupational Safety and Health (NIOSH). In September 1995, NIOSH issued a Criteria Document in which it recommended that the respirable coal mine dust permissible exposure limit (PEL) be cut in half. In February 1996, the Secretary of Labor convened a Federal Advisory Committee on the Elimination of Pneumoconiosis Among Coal Miners (Advisory Committee) to assess the adequacy of MSHA's current program and standards to control respirable dust in underground and surface coal mines, as well as other ways to eliminate black lung and silicosis among coal miners. The Committee represented the labor, industry and academic communities. The Committee submitted its report to the Secretary of Labor in November 1996, with the majority of the recommendations unanimously supported by the Committee members. The Committee recommended a number of actions to reduce miners' exposure to respirable coal mine dust. This proposed rule is an important element in MSHA's Comprehensive Black Lung Reduction Strategy (Strategy) to ''End Black Lung Now'' and combines the following rulemaking actions: (1) ''Occupational Exposure to Coal Mine Dust (Lowering Exposure),'' RIN 1219-AB64; (2) ''Verification of Underground Coal Mine Operators' Dust Control Plans and Compliance Sampling for Respirable Dust,'' RIN 1219-AB14; (3) ''Determination of Concentration of Respirable Coal Mine Dust,'' RIN 1219-AB18; and (4) ''Respirable Coal Mine Dust: Continuous Personal Dust Monitor (CPDM),'' RIN 1219-AB48.

Statement of Need:

Comprehensive respirable dust standards for coal mines were designed to reduce the incidence, and eventually eliminate, CWP and silicosis. While significant progress has been made toward improving the health conditions in our Nation's coal mines, miners remain at risk of developing occupational lung disease, according to NIOSH. Recent NIOSH data indicates increased prevalence of CWP ''clusters'' in several geographical areas, particularly in the Southern Appalachian Region.

Summary of Legal Basis:

Promulgation of this regulation is authorized by the Federal Mine Safety and Health Act of 1977 as amended by the Mine Improvement and New Emergency Response Act of 2006.

Alternatives:

MSHA is considering amendments, revisions, and additions to existing standards.

Anticipated Cost and Benefits:

MSHA developed a preliminary regulatory economic analysis to accompany the proposed rule.

Risks:

Respirable coal dust is one of the most serious occupational hazards in the mining industry. Occupational exposure to excessive levels of respirable coal mine dust can cause coal workers' pneumoconiosis and silicosis, which are potentially disabling and can cause death. MSHA is pursuing both regulatory and nonregulatory actions to eliminate these diseases through the control of coal mine respirable dust levels in mines and reduction of miners' exposure. MSHA developed a risk assessment to accompany the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	10/19/10	75 FR 64412
Hearings	11/15/10	75 FR 69617
NPRM Comment Period End	02/28/11	
NPRM–Rescheduling of Public Hearings; Correction	11/30/10	75 FR 73995
Post Hearing Comment Period End	02/28/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

URL For More Information:

http://www.msha.gov/S&HINFO/BlackLung/homepage2009.asp

URL For Public Comments:

http://www.regulations.gov

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RIN: 1219–AB64

DOL—MSHA

103. SAFETY AND HEALTH MANAGEMENT PROGRAMS FOR MINES

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Legal Authority:

30 USC 811 and 812

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

MSHA held public meetings and gathered information and suggestions from the mining community on effective, comprehensive safety and health management programs, including programs used in the mining industry. MSHA will use all information received to develop a proposed rule for safety and health management programs to eliminate hazards and prevent injuries and illnesses at mines.

Statement of Need:

Mining is one of the most hazardous industries in this country. Yet year after year, many mines experience low injury and illness rates and low violation rates. For these mine operators, preventing harm to their miners is more than compliance with safety and health requirements; it reflects an embodiment of a culture of safety—from CEO to the miner to the contractor. This culture of safety derives from a commitment to a systematic, effective, comprehensive management of safety and health at mines with full participation of all miners.

MSHA believes requiring effective safety and health management

programs in mining will create a sustained industry-wide effort to eliminate hazards and will result in the prevention of injuries and illnesses.

Summary of Legal Basis:

Promulgation of this standard is authorized by section 101 of the Federal Mine Safety and Health Act of 1977 as amended by the Mine Improvement and New Emergency Response Act of 2006.

Alternatives:

No reasonable alternatives to this regulation would be as comprehensive or as effective in eliminating hazards and preventing injuries and illnesses.

Anticipated Cost and Benefits:

MSHA will develop a preliminary regulatory economic analysis to accompany the proposed rule.

Risks:

The lack of a comprehensive safety and health management program contributes to a higher incidence of injury and illness rates and higher violation rates.

Timetable:

Action	Date	FR Cite
NPRM	06/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 1219–AB71

DOL—MSHA

104. PATTERN OF VIOLATIONS

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Legal Authority:

30 USC 814(e); 30 USC 957

CFR Citation:

30 CFR 104

Legal Deadline:

None

Abstract:

MSHA is preparing a proposed rule to revise the Agency's existing regulation for pattern of violations contained in 30 CFR part 104. MSHA has determined that the existing pattern criteria and procedures do not reflect the statutory intent for section 104(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act) that operators manage health and safety conditions at mines so that the root causes of significant and substantial (S&S) violations are addressed before they become a hazard to the health and safety of miners. The legislative history of the Mine Act explains that Congress intended the pattern of violations tool be used for operators who have demonstrated a disregard for the health and safety of miners. The proposal would reflect statutory intent, simplify the pattern of violations criteria, and improve consistency in applying the patterns of violations criteria.

Statement of Need:

The pattern of violations provision was a new enforcement tool in the Mine Act. The Mine Act places the ultimate responsibility for ensuring the safety and health of miners on mine operators. The goal of the pattern of violations proposed rule is to compel operators to manage health and safety conditions so that the root causes of S&S violations are found and fixed before they become a hazard to miners. MSHA's existing regulation is not consistent with the language, purpose, and legislative history of the Mine Act and hinders the Agency's use of pattern of violations to identify chronic violators who thumb their noses at the law by a continuing cycle of citation and abatement.

Summary of Legal Basis:

Promulgation of this standard is authorized by sections 104(e) and 957 of the Federal Mine Safety and Health Act of 1977.

Alternatives:

MSHA will consider alternative criteria for determining when a pattern of significant and substantial violations exists in order to improve health and safety conditions in mines and provide protection for miners. Congress provided the Secretary with broad discretion in determining criteria, recognizing that MSHA may need to modify the criteria as Agency experience dictates.

Anticipated Cost and Benefits:

MSHA will prepare estimates of the anticipated costs and benefits associated with the proposed rule.

Risks:

Mine operators with a chronic history of persistent serious violations needlessly expose miners to the same hazards again and again. These operators demonstrate a disregard for the safety and health of miners; this indicates a serious safety and health management problem at the mine. The existing regulation has not been effective in reducing repeated risks to miners at these mines.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

None

URL For More Information:

http://www.msha.gov/regsinfo.htm

URL For Public Comments:

http://www.regulations.gov

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RIN: 1219–AB73

DOL—MSHA

105. ● MAINTENANCE OF INCOMBUSTIBLE CONTENT OF ROCK DUST IN UNDERGROUND COAL MINES

Priority:

Other Significant

Legal Authority:

30 USC 811, 864

CFR Citation:

30 CFR sec 75.403

Legal Deadline:

None

Abstract:

The Mine Safety and Health Administration (MSHA) issued an emergency temporary standard (ETS) under section 101(b) of the Federal Mine Safety and Health Act of 1977 in response to the grave danger that miners in underground bituminous coal mines face when accumulations of coal dust are not made inert. MSHA concluded from investigations of mine explosions and other reports that immediate action was necessary to protect miners.

Accumulations of coal dust can ignite, resulting in an explosion, or after an explosion, it can propagate, increasing the severity of the explosion. The ETS requires mine operators to increase the incombustible content of combined coal dust, rock dust, and other dust to at least 80 percent in underground areas of bituminous mines. The ETS further requires that the incombustible content of such combined dust be raised 0.4 percent for each 0.1 percent of methane present. The ETS strengthens the protection for miners by reducing the potential for a coal mine explosion.

Statement of Need:

MSHA determined that a revised standard for ''Maintenance of Incombustible Content of Rock Dust'' is necessary to immediately protect underground coal miners from hazards of coal dust explosions. This determination is based on: (1) MSHA's accident investigation reports of mine explosions in intake air courses that involved coal dust (Dubaniewicz 2009); (2) the National Institute for Occupational Safety and Health's Report of Investigations 9679 (Cashdollar et al. 2010), ''Recommendations for a New Rock Dusting Standard to Prevent Coal Dust Explosions in Intake Airways''; and (3) MSHA's experience and data.

Summary of Legal Basis:

Promulgation of this standard is authorized by section 101(b) of the Federal Mine Safety and Health Act of 1977.

Alternatives:

MSHA will consider revisions to the ETS, based on public comments received during the rulemaking process.

Anticipated Cost and Benefits:

MSHA estimates that the ETS would result in approximately $22.0 million in yearly costs for the underground bituminous coal mining industry. The ETS provides additional safety protection for miners in underground bituminous coal mines from the explosion hazard of coal and other dusts. MSHA estimates that, on average, the ETS would prevent approximately 1.5 deaths every year and would prevent one additional injury about every 4 years.

Risks:

Based on NIOSH's data and recommendations, and MSHA's data and experience, the Secretary determined that miners are exposed to grave danger in areas of underground bituminous coal mines that are not properly and sufficiently rock dusted in accordance with the requirements in this ETS.

Timetable:

Action	Date	FR Cite
Emergency Temporary Standard	09/23/10	75 FR 57849
Hearing	10/26/10	
Hearing	10/28/10	
Hearing	11/16/10	
Hearing	11/18/10	
Comment Period End	12/20/10	
Final Action	06/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

URL For More Information:

www.msha.gov/regsinfo.htm

URL For Public Comments:

www.regulations.gov

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RIN: 1219–AB76

DOL—MSHA

FINAL RULE STAGE

106. PROXIMITY DETECTION SYSTEMS FOR UNDERGROUND MINES

Priority:

Other Significant

Legal Authority:

30 USC 811

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

The Mine Safety and Health Administration (MSHA) will issue an emergency temporary standard (ETS) under section 101(b) of the Federal Mine Safety and Health Act of 1977 in response to the grave danger that miners face when working near mobile equipment in underground mines. MSHA has concluded, from investigations of accidents involving mobile equipment and other reports, that immediate action is necessary to protect miners. To date, in 2010, there have been five fatalities resulting from crushing and pinning accidents.

Mobile equipment can pin, crush, or strike a miner working near the equipment. Proximity detection technology can prevent these types of accidents. The ETS would strengthen the protection for underground miners by reducing the potential of pinning, crushing or striking hazards associated with working close to mobile equipment. As a part of the Secretary's strategy for securing safe and healthy workplaces, the Mine Safety and Health Administration will undertake regulatory action related to reducing

injuries and fatalities to workers in close proximity to moving equipment and vehicles.

Statement of Need:

Mining is one of the most hazardous industries in this country. Miners continue to be injured or killed resulting from pinning, crushing, or striking accidents involving mobile equipment. Equipment is available to help prevent accidents that cause debilitating injuries and accidental death.

Summary of Legal Basis:

Promulgation of this standard is authorized by section 101(b) of the Federal Mine Safety and Health Act of 1977 as amended by the Mine Improvement and New Emergency Response Act of 2006.

Alternatives:

No reasonable alternatives to this regulation would be as comprehensive or as effective in eliminating hazards and preventing injuries.

Anticipated Cost and Benefits:

MSHA will develop a regulatory economic analysis to accompany the ETS.

Risks:

The lack of proximity detection systems on mobile equipment in underground mines contributes to a higher incidence of debilitating injuries and accidental deaths.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	02/01/10	75 FR 5009
Comment Period Ended	04/02/10	
Emergency Temporary Standard	03/00/11	
Final Action	12/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

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RIN: 1219–AB65

DOL—Occupational Safety and Health Administration (OSHA)

PRERULE STAGE

107. INFECTIOUS DISEASES

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

5 USC 533; 29 USC 657 and 658; 29 USC 660; 29 USC 666; 29 USC 669; 29 USC 673; . . .

CFR Citation:

29 CFR 1910

Legal Deadline:

None

Abstract:

Employees in health care and other high-risk environments face long-standing infectious diseases hazards such as tuberculosis (TB), varicella disease (chickenpox, shingles), and measles (rubeola), as well as new and emerging infectious disease threats, such as Severe Acute Respiratory Syndrome (SARS) and pandemic influenza. Health care workers and workers in related occupations or who are exposed in other high-risk environments are at increased risk of contracting TB, SARS, MRSA, and other infectious diseases that can be transmitted through a variety of exposure routes. OSHA is concerned about the ability of employees to continue to provide health care and other critical services without unreasonably jeopardizing their health.

OSHA is considering the need for a standard to ensure that employers establish a comprehensive infection control program and control measures to protect employees from infectious disease exposures to pathogens that can cause significant disease. Workplaces where such control measures might be necessary include: health care, emergency response, correctional facilities, homeless shelters, drug treatment programs, and other occupational settings where employees can be at increased risk of exposure to potentially infectious people. A standard could also apply to laboratories which handle materials that may be a source of pathogens, and to pathologists, coroners' offices, medical examiners, and mortuaries.

OSHA published an RFI on May 6, 2010, the comment period closed on August 4, 2010. OSHA is currently analyzing the comments submitted by stakeholders.

Statement of Need:

In 2007, the healthcare and social assistance sector as a whole had 16.5 million employees. Healthcare workplaces can range from small private practices of physicians to hospitals that employ thousands of workers. In addition, healthcare is increasingly being provided in other settings such as nursing homes, free-standing surgical and outpatient centers, emergency care clinics, patients' homes, and prehospitalization emergency care settings. The Agency is particularly concerned by studies that indicate that transmission of infectious diseases to both patients and healthcare workers may be occurring as a result of incomplete adherence to recognized, but voluntary, infection control measures. Another concern is the movement of healthcare delivery from the traditional hospital setting, with its greater infrastructure and resources to effectively implement infection control measures, into more diverse and smaller workplace setting with less infrastructure and fewer resources, but with an expanding worker population.

Summary of Legal Basis:

The Occupational Safety and Health Act of 1970 authorizes the Secretary of Labor to set mandatory occupational safety and health standards to assure safe and healthful working conditions for working men and women (29 U.S.C. 651).

Alternatives:

The alternative to the proposed rulemaking would be to take no regulatory action.

Anticipated Cost and Benefits:

The estimates of the costs and benefits are still under development.

Risks:

Analysis of risks is still under development.

Timetable:

Action	Date	FR Cite
Request for Information (RFI)	05/06/10	75 FR 24835
RFI Comment Period End	08/04/10	
Analyze Comments	12/00/10	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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RIN: 1218–AC46

DOL—OSHA

108. INJURY AND ILLNESS PREVENTION PROGRAM

Priority:

Economically Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 653; 29 USC 655(b); 29 USC 657

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

OSHA is developing a rule requiring employers to implement an Injury and Illness Prevention Program. It involves planning, implementing, evaluating, and improving processes and activities that protect employee safety and health. OSHA has substantial data on reductions in injuries and illnesses from employers who have implemented similar effective processes. The Agency currently has voluntary Safety and Health Program Management Guidelines (54 FR 3904-3916), published in 1989. An injury and illness prevention rule would build on these guidelines as well as lessons learned from successful approaches and best practices under OSHA's Voluntary Protection Program Safety and Health Achievement Recognition Program and similar industry and international initiatives such as American National Standards Institute/American Industrial Hygiene Association Z10 and Occupational Health and Safety Assessment Series 18001. Twelve States have similar rules.

Statement of Need:

There are approximately 5,000 workplace fatalities and approximately 3.5 million serious workplace injuries every year. There are also many workplace illnesses caused by exposure to common chemical, physical, and biological agents. OSHA believes that an injury and illness prevention program is a universal intervention that can be used in a wide spectrum of workplaces to dramatically reduce the number and severity of workplace injuries. Such programs have been shown to be effective in many workplaces in the United States and internationally.

Summary of Legal Basis:

The Occupational Safety and Health Act of 1970 authorizes the Secretary of Labor to set mandatory occupational safety and health standards to assure safe and healthful working conditions for working men and women (29 U.S.C. 651).

Alternatives:

The alternatives to this rulemaking would be to issue guidance, recognition programs, or allow for the states to develop individual regulations. OSHA has used voluntary approaches to address the need, including publishing Safety and Health Program Management Guidelines in 1989. In addition, OSHA has two recognition programs, the Voluntary Protection Program (known as VPP), and the Safety and Health Achievement Recognition Program (known as SHARP). These programs recognize workplaces with effective safety and health programs. Several States have issued regulations that require employers to establish effective safety and health programs.

Anticipated Cost and Benefits:

The scope of the proposed rulemaking and the costs and benefits are still under development for this regulatory action.

Risks:

A detailed risk analysis is underway.

Timetable:

Action	Date	FR Cite
Stakeholder Meetings	06/03/10	
Initiate SBREFA	06/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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DOL—OSHA

109. • BACKING OPERATIONS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 655(b)

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

NIOSH reports that half of the fatalities involving construction equipment occur while the equipment is backing. Backing accidents cause 500 deaths and 15,000 injuries per year. Emerging technologies in the field of backing operations include after market devices, such as camera, radar, and sonar, to help monitor the presence of workers on foot in blind areas, and new monitoring technology, such as tag-based warning systems that use radio frequency (RFID) and magnetic field generators on equipment to detect electronic tags worn by workers.

Statement of Need:

A study by the Census of Fatal Occupational Injuries found that the most common primary sources of injury to be trucks (45%), road grading and surfacing machinery (15%), and cars (15%). That same study showed that of the 465 vehicle and equipment-related fatalities within work zones, 318 workers on foot were struck by a vehicle. Incidents involving backing vehicles were prominent among the worker-on-foot fatalities that occurred (51%). The primary injury sources of fatalities of workers on foot struck by a construction vehicle were trucks (61%) and construction machines (30%). OSHA believes that regulatory action is necessary to address risks associated with backup operations.

Summary of Legal Basis:

The Occupational Safety and Health Act of 1970 authorizes the Secretary of Labor to set mandatory occupational safety and health standards to assure safe and healthful working conditions for working men and women (29 U.S.C. 651).

Alternatives:

The alternative to the proposed rulemaking would be to take no regulatory action.

Anticipated Cost and Benefits:

The estimates of the costs and benefits are still under development.

Risks:

Analysis of risks is still under development.

Timetable:

Action	Date	FR Cite
RFI	05/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

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DOL—OSHA

PROPOSED RULE STAGE

110. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal governments.

Legal Authority:

29 USC 655(b); 29 USC 657

CFR Citation:

29 CFR 1910; 29 CFR 1915; 29 CFR 1917; 29 CFR 1918; 29 CFR 1926

Legal Deadline:

None

Abstract:

Crystalline silica is a significant component of the earth's crust, and many workers in a wide range of industries are exposed to it, usually in the form of respirable quartz or, less frequently, cristobalite. Chronic silicosis is a uniquely occupational disease resulting from exposure of employees over long periods of time (10 years or more). Exposure to high levels of respirable crystalline silica causes acute or accelerated forms of silicosis that are ultimately fatal. The current OSHA permissible exposure limit (PEL) for general industry is based on a formula proposed by the American Conference of Governmental Industrial Hygienists (ACGIH) in 1968 (PEL=10mg/cubic meter/(% silica + 2), as respirable dust). The current PEL for construction and shipyards (derived from ACGIH's 1970 Threshold Limit Value) is based on particle counting technology, which is considered obsolete. NIOSH and ACGIH recommend 50µg/m3 and 25µg/m3 exposure limits, respectively, for respirable crystalline silica.Both industry and worker groups have recognized that a comprehensive standard for crystalline silica is needed to provide for exposure monitoring, medical surveillance, and worker training. The American Society for Testing and Materials has published recommended standards for addressing the hazards of crystalline silica. The Building Construction Trades Department of the AFL-CIO has also developed a recommended comprehensive program standard. These standards include provisions for methods of compliance, exposure monitoring, training, and medical surveillance. OSHA is currently developing a NPRM.

Statement of Need:

Workers are exposed to crystalline silica dust in general industry, construction, and maritime industries. Industries that could be particularly affected by a standard for crystalline silica include: Foundries, industries that have abrasive blasting operations, paint manufacture, glass and concrete product manufacture, brick making, china and pottery manufacture, manufacture of plumbing fixtures, and many construction activities including highway repair, masonry, concrete work, rock drilling, and tuckpointing. The seriousness of the health hazards associated with silica exposure is demonstrated by the fatalities and disabling illnesses that continue to occur. In 2005, the most recent year for which data is available, silicosis was identified on 161 death certificates as an underlying or contributing cause of death. It is likely that many more cases have occurred where silicosis went undetected. In addition, the International Agency for Research on Cancer has designated crystalline silica as carcinogenic to humans, and the National Toxicology Program has concluded that respirable crystalline silica is a known human carcinogen. Exposure to crystalline silica has also been associated with an increased risk of developing tuberculosis and other nonmalignant respiratory diseases, as well as renal and autoimmune diseases. Exposure studies and OSHA enforcement data indicate that some

workers continue to be exposed to levels of crystalline silica far in excess of current exposure limits. Congress has included compensation of silicosis victims on Federal nuclear testing sites in the Energy Employees' Occupational Illness Compensation Program Act of 2000. There is a particular need for the Agency to modernize its exposure limits for construction and shipyard workers, and to address some specific issues that will need to be resolved to propose a comprehensive standard.

Summary of Legal Basis:

The legal basis for the proposed rule is a preliminary determination that workers are exposed to a significant risk of silicosis and other serious disease and that rulemaking is needed to substantially reduce the risk. In addition, the proposed rule will recognize that the PELs for construction and maritime are outdated and need to be revised to reflect current sampling and analytical technologies.

Alternatives:

Over the past several years, the Agency has attempted to address this problem through a variety of non-regulatory approaches, including initiation of a Special Emphasis Program on silica in October 1997, sponsorship with NIOSH and MSHA of the National Conference to Eliminate Silicosis, and dissemination of guidance information on its Web site.

Anticipated Cost and Benefits:

The scope of the proposed rulemaking and estimates of the costs and benefits are still under development.

Risks:

A detailed risk analysis is under way.

Timetable:

Action	Date	FR Cite
Completed SBREFA Report	12/19/03	
Initiated Peer Review of Health Effects and Risk Assessment	05/22/09	
Completed Peer Review	01/24/10	
NPRM	04/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

Federalism:

This action may have federalism implications as defined in EO 13132.

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DOL—OSHA

111. OCCUPATIONAL INJURY AND ILLNESS RECORDING AND REPORTING REQUIREMENTS—MODERNIZING OSHA'S REPORTING SYSTEM

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

29 USC 657

CFR Citation:

29 CFR 1904

Legal Deadline:

None

Abstract:

OSHA is proposing changes to its reporting system for occupational injuries and illnesses. An updated and modernized reporting system would enable a more efficient and timely collection of data and would improve the accuracy and availability of the relevant records and statistics. This proposal involves modification to 29 CFR part 1904.41 to expand OSHA's legal authority to collect and make available injury and illness information required under part 1904.

Statement of Need:

The collection of establishment specific injury and illness data in electronic format on a timely basis is needed to help OSHA, employers, employees, researchers, and the public more effectively prevent workplace injuries and illnesses, as well as support President Obama's Open Government Initiative to increase the ability of the public to easily find, download, and use the resulting dataset generated and held by the Federal Government.

Summary of Legal Basis:

The Occupational Safety and Health Act of 1970 authorizes the Secretary of Labor to develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics (29 U.S.C. 673).

Alternatives:

The alternative to the proposed rulemaking would be to take no regulatory action.

Anticipated Cost and Benefits:

The estimates of the costs and benefits are still under development.

Risks:

Analysis of risks is still under development.

Timetable:

Action	Date	FR Cite
Stakeholder Meetings	05/25/10	75 FR 24505
Comment Period End	06/18/10	
NPRM	09/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

None

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DOL—OSHA

FINAL RULE STAGE

112. HAZARD COMMUNICATION

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

29 USC 655(b); 29 USC 657

CFR Citation:

29 CFR 1910.1200; 29 CFR 1915.1200; 29 CFR 1917.28; 29 CFR 1918.90; 29 CFR 1926.59; 29 CFR 1928.21

Legal Deadline:

None

Abstract:

OSHA's Hazard Communication Standard (HCS) requires chemical manufacturers and importers to evaluate the hazards of the chemicals they produce or import, and prepare labels and material safety data sheets to convey the hazards and associated protective measures to users of the chemicals. All employers with hazardous chemicals in their workplaces are required to have a hazard communication program, including labels on containers, material safety data sheets (MSDS), and training for employees. Within the United States (U.S.), there are other Federal agencies that also have requirements for classification and labeling of chemicals at different stages of the life cycle. Internationally, there are a number of countries that have developed similar laws that require information about chemicals to be prepared and transmitted to affected parties. These laws vary with regard to the scope of substances covered, definitions of hazards, the specificity of requirements (e.g., specification of a format for MSDSs), and the use of symbols and pictograms. The inconsistencies between the various laws are substantial enough that different labels and safety data sheets must often be used for the same product when it is marketed in different nations.

The diverse and sometimes conflicting national and international requirements can create confusion among those who seek to use hazard information. Labels and safety data sheets may include symbols and hazard statements that are unfamiliar to readers or not well understood. Containers may be labeled with such a large volume of information that important statements are not easily recognized. Development of multiple sets of labels and safety data sheets is a major compliance burden for chemical manufacturers, distributors, and transporters involved in international trade. Small businesses may have particular difficulty in coping with the complexities and costs involved.

As a result of this situation, and in recognition of the extensive international trade in chemicals, there has been a long-standing effort to harmonize these requirements and develop a system that can be used around the world. In 2003, the United Nations adopted the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). Countries are now adopting the GHS into their national regulatory systems.

Statement of Need:

Multiple sets of requirements for labels and safety data sheets present a compliance burden for U.S. manufacturers, distributors, and transports involved in international trade. The comprehensibility of hazard information and worker safety will be enhanced as the GHS will: (1) Provide consistent information and definitions for hazardous chemicals; (2) address stakeholder concerns regarding the need for a standardized format for material safety data sheets; and (3) increase understanding by using standardized pictograms and harmonized hazard statements. The increase in comprehensibility and consistency will reduce confusion and thus improve worker safety and health. In addition, the adoption of the GHS would facilitate international trade in chemicals, reduce the burdens caused by having to comply with differing requirements for the same product, and allow companies that have not had the resources to deal with those burdens to be involved in international trade. This is particularly important for small producers who may be precluded currently from international trade because of the compliance resources required to address the extensive regulatory requirements for classification and labeling of chemicals. Thus every producer is likely to experience some benefits from domestic harmonization, in addition to the benefits that will accrue to producers involved in international trade. Several nations, including the European Union, have adopted the GHS with an implementation schedule through 2015. U.S. manufacturers, employers, and employees will be at a disadvantage in the event that our system of hazard communication is not in compliance with the GHS.

Summary of Legal Basis:

The Occupational Safety and Health Act of 1970 authorizes the Secretary of Labor to set mandatory occupational safety and health standards to assure safe and healthful working conditions for working men and women (29 U.S.C. 651).

Alternatives:

The alternative to the proposed rulemaking would be to take no regulatory action.

Anticipated Cost and Benefits:

The estimates of the costs and benefits are still under development.

Risks:

OSHA's risk analysis is under development.

Timetable:

Action	Date	FR Cite
ANPRM	09/12/06	71 FR 53617
ANPRM Comment Period End	11/13/06	
Complete Peer Review of Economic Analysis	11/19/07	
NPRM	09/30/09	74 FR 50279
NPRM Comment Period End	12/29/09	
Hearing	03/02/10	
Hearing	03/31/10	
Post Hearing Comment Period End	06/01/10	
Final Action	08/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Local, State

Federalism:

This action may have federalism implications as defined in EO 13132.

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DEPARTMENT OF TRANSPORTATION (DOT)

Introduction: Department Overview and Summary of Regulatory Priorities

The Department of Transportation (DOT) consists of 10 operating administrations and the Office of the Secretary, each of which has statutory responsibility for a wide range of regulations. DOT regulates safety in the aviation, motor carrier, railroad, motor vehicle, commercial space, and pipeline transportation areas. DOT also regulates aviation consumer and economic issues and provides financial assistance for programs involving highways, airports, public transportation, the maritime industry, railroads, and motor vehicle safety. The Department writes regulations to carry out a variety of statutes ranging from the Americans with Disabilities Act to the Uniform Time Act. Finally, DOT develops and implements a wide range of regulations that govern internal programs such as acquisitions and grants, access for the disabled, environmental protection, energy conservation, information technology, occupational safety and health, property asset management, seismic safety, and the use of aircraft and vehicles.

The Department's Regulatory Priorities

The Department's regulatory priorities respond to the challenges and opportunities we face. Our mission generally is as follows:

The national objectives of general welfare, economic growth and stability, and the security of the United States require the development of transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation at the lowest cost consistent with those and other national objectives, including the efficient use and conservation of the resources of the United States.

To help us achieve our mission, we have five strategic goals:

- Safety: Improve public health and safety by reducing transportation-related fatalities and injuries.
- State of Good Repair: Ensure the U.S. proactively maintains its critical transportation infrastructure in a state of good repair.
- Economic Competitiveness: Promote transportation policies and investments that bring lasting and equitable economic benefits to the Nation and its citizens.
- Livable Communities: Foster livable communities through place-based policies and investments that increase transportation choices and access to transportation services.
- Environmental Sustainability: Advance environmentally sustainable policies and investments that reduce carbon and other harmful emissions from transportation sources.

In identifying our regulatory priorities for the next year, the Department considered its mission and goals and focused on a number of factors, including the following:

- The relative risk being addressed
- Requirements imposed by statute or other law
- Actions on the National Transportation Safety Board ''Most Wanted List''
- The costs and benefits of the regulations
- The advantages to non-regulatory alternatives
- Opportunities for deregulatory action
- The enforceability of any rule, including the effect on agency resources

This regulatory plan identifies the Department's regulatory priorities—the 17 pending rulemakings chosen from among the dozens of significant rulemakings listed in the Department's broader regulatory agenda that the Department believes will merit special attention in the upcoming year. The rules included in the regulatory plan embody the Department's focus on our strategic goals.

The regulatory plan reflects the Department's primary focus on safety—a focus that extends across several modes of transportation. For example:

- The Federal Aviation Administration (FAA) will continue to enhance the safety of our airways by its initiative to revise rest requirements for commercial pilots.
- The Federal Motor Carrier Safety Administration (FMCSA) has initiated rulemakings to strengthen the requirements for Electronic On-Board Recorders.
- Both FMCSA and the Federal Railroad Administration (FRA) are working to improve safety by regulating the maximum amount of time commercial drivers and conductors can operate their vehicles.
- National Highway Traffic Safety Administration (NHTSA) will continue its rulemaking to reduce death and injury resulting from incidents involving vehicle drivers backing over people.
- FMCSA and the Pipeline and Hazardous Materials Safety Administration (PHMSA) are focusing on important rulemaking initiatives for address distracted driving from the use of electronic devices.

We are taking actions to address other important issues. For example:

- NHTSA is engaged in two major rulemakings to address fuel economy standards for both light and heavy duty vehicles.
- Office of the Secretary of Transportation (OST) is focused on its second major aviation consumer rulemaking designed to further safeguard the interests of consumers flying the Nation's skies.

Each of the rulemakings in the regulatory plan is described below in detail. In order to place them in context, we first review the Department's regulatory philosophy and our initiatives to educate and inform the public about transportation safety issues. We then describe the role in the Department's regulatory process and other important regulatory initiatives of OST and of each of the Department's components. Since each transportation ''mode'' within the Department has its own area of focus, we summarize the regulatory priorities of each mode and of OST, which supervises and coordinates modal initiatives and has its own regulatory responsibilities, such as consumer protection in the aviation industry.

The Department's Regulatory Philosophy and Initiatives

The Department has adopted a regulatory philosophy that applies to all its rulemaking activities. This philosophy is articulated as follows: DOT regulations must be clear, simple, timely, fair, reasonable, and necessary. They will be issued only after an appropriate opportunity for public comment, which must provide an equal chance for all affected interests to participate, and after appropriate consultation with other governmental entities. The Department will fully consider the comments received. It will assess the risks addressed by the rules and their costs and benefits, including the cumulative effects. The Department will consider appropriate alternatives, including nonregulatory approaches. It will also make every effort to ensure that regulation does not impose unreasonable mandates.

The Department stresses the importance of conducting high quality rulemakings in a timely manner and reducing the number of old rulemakings. To implement this, the Department has required the following actions: (1) Regular meetings of senior DOT officials to ensure effective policy leadership and timely decisions, (2) effective tracking and coordination of rulemakings, (3) regular reporting, (4) early briefings of interested officials, (5) regular training of staff, and (6) adequate allocations of resources. The Department has achieved significant success because of this effort. It allows the Department to use its resources more effectively and efficiently.

The Department's regulatory policies and procedures provide a comprehensive internal management and review process for new and existing regulations and ensure that the Secretary and other appropriate appointed officials review and concur in all significant DOT rules. DOT continually seeks to improve its regulatory process. A few examples include: The Department's development of regulatory process and related training courses for its employees; its use of an electronic, Internet-accessible docket that can also be used to submit comments electronically; a ''list serve'' that allows the public to sign up for e-mail notification when the Department issues a rulemaking document; creation of an electronic rulemaking tracking and coordination system; the use of direct final rulemaking; the use of regulatory negotiation; an expanded Internet page that provides important regulatory information, including ''effects'' reports and status reports (http://regs.dot.gov/); and the use of Internet blogs and other Web 2.0 technology to increase and enhance public participation in its rulemaking process.

In addition, the Department continues to engage in a wide variety of activities to help cement the partnerships between its agencies and its customers that will produce good results for transportation programs and safety. The Department's agencies also have established a number of continuing partnership mechanisms in the form of rulemaking advisory committees.

The Department is also actively engaged in the review of existing rules to determine whether they need to be revised or revoked. These reviews are in accordance with section 610 of the Regulatory Flexibility Act, Executive Order 12866, and the Department's Regulatory Policies and Procedures. This includes determining whether the rules would be more understandable if they were written using a plain language approach. Appendix D to our regulatory agenda highlights our efforts in this area.

The Department will also continue its efforts to use advances in technology to improve its rulemaking management process. For example, the Department created an effective tracking system for significant rulemakings to ensure that either rules are completed in a timely manner or delays are identified and fixed. Through this tracking system, a monthly status report is generated. To make its efforts more transparent, the Department has made this report Internet accessible. By doing this, the Department is providing valuable information concerning our rulemaking activity and is providing information necessary for the public to evaluate the Department's progress in meeting its commitment to completing quality rulemakings in a timely manner.

The Department will continue to place great emphasis on the need to complete high quality rulemakings by involving senior departmental officials in regular meetings to resolve issues expeditiously.

Office of the Secretary of Transportation (OST)

The Office of the Secretary (OST) oversees the regulatory process for the Department. OST implements the Department's regulatory policies and procedures and is responsible for ensuring the involvement of top management in regulatory decisionmaking. Through the General Counsel's office, OST is also responsible for ensuring that the Department complies with the Administrative Procedure Act, Executive Order 12866 (Regulatory Planning and Review), DOT's Regulatory Policies and Procedures, and other legal and policy requirements affecting rulemaking. Although OST's principal role concerns the review of the Department's significant rulemakings, this office has the lead role in the substance of projects concerning aviation economic rules and other rules that affect multiple elements of the Department.

OST provides guidance and training regarding compliance with regulatory requirements and process for use by personnel throughout the Department. OST also plays an instrumental role in the Department's efforts to improve our economic analyses; risk assessments; regulatory flexibility analyses; other related analyses; and data quality, including peer reviews.

OST also leads and coordinates the Department's response to the Office of Management and Budget's (OMB) intergovernmental review of other agencies' significant rulemaking documents and to Administration and congressional proposals that concern the regulatory process. The General Counsel's Office works closely with representatives of other agencies, OMB, the White House, and congressional staff to provide information on how various proposals would affect the ability of the Department to perform its safety, infrastructure, and other missions.

During fiscal year 2011, OST will continue to focus its efforts on enhancing airline passenger protections by requiring carriers to adopt various consumer service practices (2105-AD92).

OST will also continue its efforts to help coordinate the activities of several operating administrations that advance various departmental efforts that support the Administration's initiatives on promoting safety; stimulating the economy and creating jobs; sustaining and building America's transportation infrastructure; and improving livability for the people and communities who use transportation systems subject to the Department's policies.

Federal Aviation Administration (FAA)

The Federal Aviation Administration is charged with safely and efficiently operating and maintaining the most complex aviation system in the world. It is guided by its Flight Plan goals: Increased Safety, Greater Capacity, International Leadership, and Organizational Excellence. It issues regulations to provide a safe and efficient global aviation system for civil aircraft, while being sensitive to not imposing undue regulatory burdens and costs on small businesses.

FAA Activities that may lead to rulemaking in fiscal year 2011 include:

- Promotion and expansion of safety information sharing efforts, such as FAA-industry partnerships and data-driven safety programs that prioritize and address risks before they lead to accidents. Specifically, FAA will continue implementing Commercial Aviation Safety Team projects related to controlled flight into terrain, loss of control of an aircraft, uncontained engine failures, runway incursions, weather, pilot decisionmaking, and cabin safety. Some of these projects may result in rulemaking and guidance materials.

- Continuing to work cooperatively to harmonize the U.S. aviation regulations with those of other countries, without compromising rigorous safety standards. The differences worldwide in certification standards, practice and procedures, and operating rules must be identified and minimized to reduce the regulatory burden on the international aviation system. The differences between the FAA regulations and the requirements of other nations impose a heavy burden on U.S. aircraft manufacturers and operators, some of which are small businesses. Standardization should help the U.S. aerospace industry remain internationally competitive. The FAA continues to publish regulations based on recommendations of Aviation Rulemaking Committees that are the result of cooperative rulemaking between the U.S. and other countries.
- In addition to the regulatory priorities specified below, additional priorities will come from the Airline Safety and Federal Aviation Administration Extension Act of 2010, signed by the President on August 1, 2010.

FAA top regulatory priorities for 2010 to 2011 include:

- Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers (2120-AJ00)
- Helicopter Air Ambulance and Commercial Helicopter Safety Initiatives and Miscellaneous Amendments (2120-AJ53)
- Flight and Duty Time Limitations and Rest Requirements (2120-AJ58)

The Crewmember and Aircraft Dispatcher Training rulemaking would include proposals to:

- Reduce human error and improve performance among flight crewmembers, flight attendants, and aircraft dispatchers;
- Enhance traditional training programs through the use of flight simulation training devices for flight crewmembers; and
- Include additional training in areas critical to safety.

The Air Ambulance and Commercial Helicopter rulemaking would include proposals to:

- Codify current agency guidance and address National Transportation Safety Board recommendations;
- Provide certificate holders and pilots with tools and procedures that will aid in reducing accidents;
- Require additional equipment on board helicopters or air ambulances; and
- Amend all part 135 commercial helicopter operations regulations to include equipment requirements, pilot training, and alternate airport weather minimums.

The Flight and Duty Time Limitations and Rest Requirements rulemaking would include proposals to:

- Address fatigue mitigation and use existing fatigue science to establish minimum rest periods, flight time limitations, and duty period limits for flight crewmembers;
- Incorporate the use of Fatigue Risk Management Systems as an option to provide operator flexibility for specific operations; and
- Reduce human error attributed to fatigue among flight crewmembers.

Federal Highway Administration (FHWA)

The Federal Highway Administration (FHWA) carries out the Federal highway program in partnership with State and local agencies to meet the Nation's transportation needs. The FHWA's mission is to improve continually the quality and performance of our Nation's highway system and its intermodal connectors.

Consistent with this mission, the FHWA will continue:

- With ongoing regulatory initiatives in support of its surface transportation programs;
- To implement legislation in the least burdensome and restrictive way possible; and
- To pursue regulatory reform in areas where project development can be streamlined or accelerated, duplicative requirements can be consolidated, recordkeeping requirements can be reduced or simplified, and the decisionmaking authority of our State and local partners can be increased.

FHWA's top regulatory priority for the fiscal year is to address the remaining congressionally directed rulemaking (Real-Time System Management Information Program (2125-AF19)) resulting from the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Additionally, the FHWA is in the process of reviewing all FHWA regulations to ensure that they are consistent with SAFETEA-LU and will update those regulations that are not consistent with this legislation.

Federal Motor Carrier Safety Administration (FMCSA)

The mission of the Federal Motor Carrier Safety Administration (FMCSA) is to reduce crashes, injuries, and fatalities involving commercial trucks and buses. A strong regulatory program is a cornerstone of FMCSA's compliance and enforcement efforts to advance this safety mission. FMCSA develops new and more effective safety regulations based on three core priorities: Raising the bar for entry, maintaining high standards, and removing high-risk behavior. In addition to Agency-directed regulations, FMCSA develops regulations mandated by Congress, such as the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). FMCSA regulations establish standards for motor carriers, drivers, vehicles, and State agencies receiving certain motor carrier safety grants and issuing commercial drivers' licenses.

FMCSA's regulatory plan for FY 2011 includes completion of a number of rulemakings that are high priorities for the Agency because they would have a positive impact on safety. Among the rulemakings included in the plan are: (1) Drivers Of Commercial Vehicles: Restricting The Use Of Cellular Phones (RIN 2126-AB29), (2) Hours of Service (RIN 2126-AB26), (3) Carrier Safety Fitness Determination (RIN 2126-AB11), (4) Electronic On-Board Recorders (EOBRs) and Hours of Service Supporting Documents (RIN 2126-AB20), and (5) National Registry of Certified Medical Examiners (RIN 2126-AA97).

Together these priority rules could help to substantially improve commercial motor vehicle (CMV) safety on our Nation's highways by improving FMCSA's ability to provide safety oversight of motor carriers and drivers. For example, the Drivers of Commercial Vehicles: Restricting the Use of Cellular Phones rulemaking (RIN 2126-AB29) would place restrictions on mobile phone usage while operating a CMV.

A major undertaking by FMCSA, which began in FY 2010, was to initiate a new rulemaking on Hours of Service (RIN 2126-AB26) as the result of a settlement agreement reached on October 26, 2009. Under terms of the settlement, FMCSA submitted a notice of proposed rulemaking to the Office of Management and Budget within 9

months, and must issue a final rule within 21 months of the settlement.

In FY 2011, FMCSA will continue its work on the Comprehensive Safety Analysis 2010 (CSA). The CSA initiative will improve the way FMCSA identifies and conducts carrier compliance and enforcement operations over the coming years. CSA's goal is to improve large truck and bus safety by assessing a wider range of safety performance data from a larger segment of the motor carrier industry through an array of progressive compliance interventions. FMCSA anticipates that the impacts of CSA and its associated rulemaking to put into place a new safety fitness standard will enable the Agency to prohibit ''unfit'' carriers from operating on the Nation's highways (the Carrier Safety Fitness Determination(RIN 2126-AB11)) and will contribute further to the Agency's overall goal of decreasing CMV-related fatalities and injuries.

In FY 2011, FMCSA plans to issue a proposed rule on Electronic On-Board Recorders and Hours of Service Supporting Documents (RIN 2126-AB20) to expand the number of carriers required to install and operate EOBRs and clarify the supporting document requirements beyond the population covered by the Agency's April 5, 2010, final rule.

Also in FY 2011, FMCSA plans to issue a final rule on the National Registry of Certified Medical Examiners (RIN 2126-AA97) to establish training and testing requirements for healthcare professionals who issue medical certificates to CMV drivers.

In order to manage its rulemaking agenda, FMCSA continues to involve senior agency leaders at the earliest stages of its rulemakings, and continues to refine its regulatory development process. The Agency also holds senior executives accountable for meeting deadlines for completing rulemakings.

National Highway Traffic Safety Administration

The statutory responsibilities of the National Highway Traffic Safety Administration (NHTSA) relating to motor vehicles include reducing the number of, and mitigating the effects of, motor vehicle crashes and related fatalities and injuries; providing safety performance information to aid prospective purchasers of vehicles, child restraints, and tires; and improving automotive fuel efficiency. NHTSA pursues policies that encourage the development of non-regulatory approaches when feasible in meeting its statutory mandates. It issues new standards and regulations or amendments to existing standards and regulations when appropriate. It ensures that regulatory alternatives reflect a careful assessment of the problem and a comprehensive analysis of the benefits, costs, and other impacts associated with the proposed regulatory action. Finally, it considers alternatives consistent with the Administration's regulatory principles.

NHTSA continues to pursue the high priority vehicle safety issue of occupant protection in rollover events and will issue a final rule establishing performance standards to reduce complete and partial ejections of vehicle occupants from outboard seating positions in fiscal year 2011. NHTSA will continue to work towards a final rule to require the installation of lap/shoulder belts in newly manufactured motorcoaches in accordance with NHTSA's 2007 Motorcoach Safety Plan and DOT's 2009 Departmental Motorcoach Safety Action Plan. NHTSA also plans to publish a final rule on Rearview Visibility in 2011; this action will expand the required field of view to enable the driver of a motor vehicle to detect areas behind the motor vehicle to reduce death and injury resulting from backing incidents, particularly incidents involving small children and disabled persons.

NHTSA will continue its efforts to reduce domestic dependency on foreign oil in accordance with the Energy Independence and Security Act (EISA) of 2007 by publishing in conjunction with EPA a joint notice of proposed rulemaking setting, for the first time, the corporate average fuel economy (CAFE) standards for both medium- and heavy-duty trucks. NHTSA will also publish a notice of proposed rulemaking that would propose CAFE standards for light trucks and passenger cars for model years 2017 and beyond in fiscal year 2011.

In addition to numerous programs that focus on the safe performance of motor vehicles, the Agency is engaged in a variety of programs to improve driver and occupant behavior. These programs emphasize the human aspects of motor vehicle safety and recognize the important role of the States in this common pursuit. NHTSA has identified two high priority areas: Safety belt use and impaired driving. To address these issue areas, the Agency is focusing especially on three strategies—conducting highly visible, well-publicized enforcement; supporting prosecutors who handle impaired driving cases and expanding the use of DWI/Drug Courts, which hold offenders accountable for receiving and completing treatment for alcohol abuse and dependency; and adopting alcohol screening and brief intervention by medical and health care professionals. Other behavioral efforts encourage child safety-seat use; combat excessive speed and aggressive driving; improve motorcycle, bicycle, and pedestrian safety; and provide consumer information to the public.

Federal Railroad Administration (FRA)

FRA's current regulatory program contains numerous mandates resulting from the Rail Safety Improvement Act of 2008 (RSIA08), as well as actions supporting the Department's High-Speed Rail Strategic Plan. RSIA08 alone has resulted in at least 18 rulemaking actions, which are competing for limited resources to meet statutory deadlines. FRA has prioritized these rulemakings according to the greatest effect on safety, as well as expressed congressional interest, and will work to complete as many rulemakings as possible prior to their statutory deadlines. Revised timelines for completion of unfinished regulations will be forwarded to Congress for consideration.

Through the Railroad Safety Advisory Committee (RSAC), FRA is working to complete RSIA08 actions that include developing requirements for train conductor certification, roadway worker protection, hours of service for employees of intercity and commuter passenger rail service, and training for railroad employees. Specifically, with regard to passenger hours of service, FRA is developing a notice of proposed rulemaking that would include proposals to establish hours of service limitations for train employees of commuter and intercity passenger railroads. The regulation will also address fatigue issues. RSAC-supported actions that advance high-speed passenger rail include proposed revisions to the Track Safety Standards dealing with vehicle-track interaction. FRA is also initiating a rulemaking related to the development of railroad risk reduction and system safety programs. This activity will be a multi-year effort due to the underlying statutory requirements that must be undertaken prior to the issuance of any final rule.

Federal Transit Administration (FTA)

FTA helps communities support public transportation by making grants of Federal funding for transit vehicles, construction of transit facilities, and

planning and operation of transit and other transit-related purposes. FTA regulatory activity focuses implementing the laws that apply to recipients' uses of federal funding and the terms and conditions of FTA grant awards. FTA policy regarding regulations is to:

- Provide maximum benefit to the mobility of the nation's citizens and the connectivity of transportation infrastructure;
- Provide maximum local discretion;
- Ensure the most productive use of limited Federal resources;
- Protect taxpayer investments in public transportation;
- Incorporate principles of sound management into the grant management process.

As the needs for public transportation have changed over the years, the Federal transit programs have grown in number and complexity. FTA's regulatory priorities for the coming year will reflect the mandates of the Agency's authorization statute, including, most notable, the Major Capital Investments ''New Starts'' program and the State Safety Oversight (SSO) program. The New Starts program is the main source of discretionary Federal funding for construction of rapid rail, light rail, commuter rail, and other forms of transit infrastructure. The SSO program addressed the safety of rapid rail systems and other forms of rail transit not otherwise regulated by the Federal Railroad Administration. FTA also anticipates amending its regulations governing recipients' management of major capital projects and its Bus Testing rule.

Maritime Administration (MARAD)

The Maritime Administration (MARAD) administers Federal laws and programs to promote and strengthen the U.S. merchant marine to meet the economic and security needs of the Nation. To that end, MARAD's efforts are focused upon ensuring a strong American presence in the domestic and international trades and to expanding maritime opportunities for American businesses and workers.

MARAD's regulatory objectives and priorities reflect the Agency's responsibility for ensuring the availability of a U.S. merchant marine that can provide water transportation services for American shippers and consumers and, in times of war or national emergency, for the U.S. armed forces. Major program areas include: The Maritime Security Program; the Voluntary Intermodal Sealift Agreement program; the National Defense Reserve Fleet and the Ready Reserve Force; the Maritime Guaranteed Loan financing program; the United States Merchant Marine Academy, and mariner education and training support programs; the Deepwater Port Licensing program; and monitoring and enforcement of U.S. cargo preference laws. In April 2010, the Secretary announced MARAD's newest program, the ''America's Marine Highway Program.''

MARAD's primary regulatory activities in fiscal year 2011 will be to assess existing cargo preference-related regulations, and to propose updates or new regulations where appropriate.

Pipeline and Hazardous Materials Safety Administration (PHMSA)

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has responsibility for rulemaking under two programs. Through the Associate Administrator for Hazardous Materials Safety, PHMSA administers regulatory programs under Federal hazardous materials transportation law and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. Through the Associate Administrator for Pipeline Safety, PHMSA administers regulatory programs under the Federal pipeline safety laws and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990.

PHMSA will continue to work toward the elimination of deaths and injuries associated with the transportation of hazardous materials by all transportation modes, including pipeline. We will concentrate on the prevention of high-risk incidents identified through the evaluation of transportation incident data and findings of the National Transportation Safety Board. PHMSA will use all available agency tools to assess data; evaluate alternative safety strategies, including regulatory strategies as necessary and appropriate; target enforcement efforts; and enhance outreach, public education, and training to promote safety outcomes.

PHMSA will continue to focus its safety efforts on the resolution of highest priority risks. PHMSA will consider regulatory changes to combat the dangers practice of distracted driving. In an effort to understand and mitigate crashes associated with driver distraction, the DOT has been studying the distracted driving issue with respect to both behavioral and vehicle safety countermeasures. As part of the DOT's overall strategy to this problem, PHMSA plans to address the practice of text messaging (2137-AE63) and mobile phone (2137-AE65) use while driving. PHMSA's rules would apply to commercial motor vehicle drivers transporting a quantity of hazardous material requiring placarding under part 172 of the 49 CFR or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.

PHMSA is also considering whether changes are needed to the regulations covering hazardous liquid onshore pipelines. In particular, PHMSA is considering whether it should extend regulation to certain pipelines currently exempt from regulation; whether other areas along a pipeline should either be identified for extra protection or be included as additional high consequence areas (HCAs) for Integrity Management (IM) protection; whether to establish and/or adopt standards and procedures for minimum lead detection requirements for all pipelines; whether to require the installation of emergency flow restricting devices (EFRDs) in certain areas; whether revised valve spacing requirements are needed on new construction or existing pipelines; whether repair timeframes should be specified for pipeline segments in areas outside the HCAs that are assessed as part of the IM; and whether to establish and/or adopt standards and procedures for improving the methods of preventing, detecting, assessing and remediating stress corrosion cracking (SCC) in hazardous liquid pipeline systems.

Research and Innovative Technology Administration (RITA)

The Research and Innovative Technology Administration (RITA) seeks to identify and facilitate solutions to the challenges and opportunities facing America's transportation system through:

- Coordination, facilitation, and review of the Department's research and development programs and activities;
- Providing multi-modal expertise in transportation and logistics research, analysis, strategic planning, systems engineering and training;
- Advancement, and research and development, of innovative technologies, including intelligent transportation systems;
- Comprehensive transportation statistics research, analysis, and reporting;

- Managing education and training in transportation and national transportation-related fields; and
- Managing the activities of the John A. Volpe National Transportation Systems Center.

Through its Bureau of Transportation Statistics, Office of Airline Information, RITA collects, compiles, analyzes, and makes accessible information on the Nation's air transportation system. RITA collects airline financial, traffic, and operating statistical data, including on-time flight performance data that highlight long tarmac times and chronically late flights. This information gives the Government consistent and comprehensive economic and market data on airline operations that are used in supporting policy initiatives and administering the Department's mandated aviation responsibilities, including negotiating international bilateral aviation agreements, awarding international route authorities, performing airline and industry status evaluations, supporting air service to small communities, setting Alaskan Bush Mail rates, and meeting international treaty obligations.

Through its Intelligent Transportation Systems Joint Program Office (ITS/JPO), RITA conducts research and demonstrations and, as appropriate, may develop new regulations, in coordination with OST and other DOT operating administrations, to enable deployment of ITS research and technology results. This office collects and disseminates benefits and costs information resulting from ITS-related research along with direct measurement of the deployment of ITS nationwide. These efforts support market assessments for emerging market sectors that would be cost-prohibitive for industry to absorb alone. Such information is widely consumed by the community of stakeholders to determine their deployment needs.

The ITS Architecture and Standards Programs develop and maintain a National ITS Architecture; develop open, non-proprietary interface standards to facilitate rapid and economical adoption of nationally interoperable ITS technologies; and cooperate to harmonize ITS standards internationally. These standards are incorporated into DOT operating administration regulatory activities when appropriate.

Through its Volpe National Transportation Systems Center, RITA provides a comprehensive range of engineering expertise, and qualitative and quantitative assessment services, focused on applying, maintaining and increasing the technical body of knowledge to support DOT operating administration regulatory activities.

Through its Transportation Safety Institute, RITA designs, develops, conducts, and evaluates training and technical assistance programs in transportation safety and security to support DOT operating administration regulatory implementation and enforcement activities.

RITA's regulatory priorities are to assist OST and all DOT operating administrations in updating existing regulations by applying research, technology, and analytical results; to provide reliable information to transportation system decisionmakers; and to provide safety regulation implementation and enforcement training.

QUANTIFIABLE COSTS AND BENEFITS OF RULEMAKINGS ON THE 2010 to 2011 DOT REGULATORY PLAN

(This chart does not account for non-quantifiable benefits, which are often substantial.)

Agency/RIN Number	Title	Stage	Quantifiable Costs Discounted 2007 $ (Millions)	Quantifiable Benefits Discounted 2007 $ (Millions)
OST				
2105–AD92	Enhancing Airline Passenger Protections — Part 2	FR 05/11	87.6	26.0
Total for OST			**87.6**	**26.0**
FAA				
2120–AJ00	Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers	SNPRM 01/11	TBD	TBD
2120–AJ53	Helicopter Air Ambulance and Commercial Helicopter Safety Initiatives and Miscellaneous Amendments	FR 10/11	TBD	TBD
2120–AJ58	Flight and Duty Time Limitations and Rest Requirements	FR 07/11	TBD	TBD
Total for FAA			**0**	**0**
FMCSA				
2126–AA97	National Registry of Certified Medical Examiners	FR 4/11	587	1,034
2126–AB11	Carrier Safety Fitness Determination	NPRM 4/11	TBD	TBD
2126–AB20	Electronic On–Board Recorders and Hours of service Supporting Documents	TBD	TBD	TBD
2126–AB26	Hours of Service	NPRM 11/10	TBD	TBD
2126–AB29	Drivers of Commercial Vehicles: Restricting the Use Of Cellular Phones	NPRM 12/10	TBD	TBD

Agency/RIN Number	Title	Stage	Quantifiable Costs Discounted 2007 $ (Millions)	Quantifiable Benefits Discounted 2007 $ (Millions)
Total for FMCSA			**587**	**1,034**
NHTSA				
2127–AK23	Ejection Mitigation	FR 01/11	583	1,741 – 2,188
2127–AK43	Rearview Mirrors	NPRM 12/10	1,861 – 1,933	619 – 778
2127–AK74	Heavy Duty Truck Fuel Economy Emissions	NPRM 12/10	7,753	49,340
2127–AK79	Passenger Car and Light Truck Corporate Average Fuel Economy Standards MYs 2017 and Beyond	Supplemental Notice of Intent 12/10	TBD	TBD
Total for NHTSA			**10,197 – 10,269**	**51,700 – 52,306**
FRA				
2130–AC15	Hours of Service: Passenger Train Employees	NPRM 05/11	TBD	TBD
Total for FRA			**0**	**0**
FTA				
2132–AB02	Major Capital Investment Projects	NPRM 06/11	TBD	TBD
Total for FRA			**0**	**0**
PHMSA				
2137–AE63	Hazardous Materials: Limiting the Use of Electronic Devices by Highway	FR 03/11	TBD	TBD
2137–AE65	Hazardous Materials: Limiting the Use of Mobile Telephones by Highway	NPRM 01/11	TBD	TBD
Total for PHMSA			**0**	**0**
TOTAL FOR DOT			**10,871.6 – 10,943.6**	**52,760 – 53,366**

Notes:
Costs and benefits discounted at a 7 percent discount rate over the lifetime of the model years involved (5 model years for fuel economy, 1 model year for the other standards).
Costs and benefits of rulemakings may be forecast over varying periods. Although the forecast periods will be the same for any given rulemaking, comparisons between proceedings should be made cautiously.
The Department of Transportation generally assumes that there are economic benefits to avoiding a fatality of $6 million. That economic value is included as part of the benefits estimates shown in the chart. As noted above, we have not included the non-quantifiable benefits.

DOT—Office of the Secretary (OST)

FINAL RULE STAGE

113. +ENHANCING AIRLINE PASSENGER PROTECTIONS—PART 2

Priority:

Other Significant

Legal Authority:

49 USC 41712; 49 USC 40101; 49 USC 41702

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

This rulemaking would enhance airline passenger protections by addressing the following areas: (1) Contingency plans for lengthy tarmac delays; (2) reporting of tarmac delay data; (3) customer service plans; (4) notification to passengers of flight status changes; (5) inflation adjustment for denied boarding compensation; (6) alternative transportation for passengers on canceled flights; (7) opt-out provisions (e.g. travel insurance); (8) contract of carriage provisions; (9) baggage fees disclosure; and (10) full fare advertising.

Statement of Need:

This rule is needed to improve the air travel environment for passengers.

Summary of Legal Basis:

The Department has authority and responsibility under 49 U.S.C. 41712, in concert with 49 U.S.C. 40101 and 49 U.S.C. 41702, to protect consumers from unfair and deceptive practices and to ensure safe and adequate service in air transportation.

Alternatives:

The main alternative would be to take no regulatory action.

Anticipated Cost and Benefits:

To be determined.

Risks:

The risk of not taking regulatory action would be a continuation of the dissatisfaction and frustration passengers have with the air travel environment.

Timetable:

Action	Date	FR Cite
NPRM	06/08/10	75 FR 32318
Clarification to NPRM	06/25/10	75 FR 36300
NPRM Comment Period Extended	08/03/10	75 FR 45562
NPRM Comment Period End	08/09/10	
Extended Comment Period End	09/23/10	
Final Rule	04/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

Agency Contact:

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Related RIN: Related to 2105–AD72

RIN: 2105–AD92

DOT—Federal Aviation Administration (FAA)

PROPOSED RULE STAGE

114. +QUALIFICATION, SERVICE, AND USE OF CREWMEMBERS AND AIRCRAFT DISPATCHERS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44904; 49 USC 44912; 49 USC 46105

CFR Citation:

14 CFR 119; 14 CFR 121; 14 CFR 135; 14 CFR 142; 14 CFR 65

Legal Deadline:

None

Abstract:

This rulemaking would amend the regulations for crewmember and dispatcher training programs in domestic, flag, and supplemental operations. The rulemaking would enhance traditional training programs by requiring the use of flight simulation training devices for flight crewmembers and including additional training requirements in areas that are critical to safety. The rulemaking would also reorganize and revise the qualification and training requirements. The changes are intended to contribute significantly to reducing aviation accidents.

Statement of Need:

This rulemaking is part of the FAA's efforts to reduce fatal accidents in which human error was a major contributing cause. The changes would reduce human error and improve performance among flight crewmembers, flight attendants, and aircraft dispatchers. National Transportation Safety Board (NTSB) investigations identified several areas of inadequate training that were the probable cause of an accident. This rulemaking contains changes to address the causes and factors identified by the NTSB.

Summary of Legal Basis:

The FAA's authority to issue rules on aviation safety is found in title 49 of the United States Code. This rulemaking is promulgated under the authority described in 49 U.S.C. 44701(a)(5), which requires the Administrator to promulgate regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security.

Alternatives:

During the Notice of Proposed Rulemaking (NPRM) phase, the FAA did not find any significant alternatives in accordance with 5 U.S.C. section 603(d). The FAA will again review alternatives at the final rule phase.

Anticipated Cost and Benefits:

The FAA is developing the costs and benefits of this rulemaking.

Risks:

The FAA will review specific risks associated with this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	01/12/09	74 FR 1280
Notice of public meeting	03/12/09	74 FR 10689
NPRM Comment Period Extended	04/20/09	74 FR 17910
NPRM Comment Period End	05/12/09	
NPRM Extended Comment Period End	08/10/09	
Supplemental NPRM	03/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

For flight crewmember information contact Edward Cook, for flight attendant information contact Nancy Lauck Claussen, and for aircraft dispatcher information contact Leo Hollis, Air Carrier Training Branch (AFS-210), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267 8166.

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 2120–AJ00

DOT—FAA

115. +AIR AMBULANCE AND COMMERCIAL HELICOPTER OPERATIONS; SAFETY INITIATIVES AND MISCELLANEOUS AMENDMENTS

Priority:

Other Significant

Legal Authority:

49 USC 106(g); 49 USC 1155; 49 USC 40101 to 40103; 49 USC 40120; 49 USC 41706; 49 USC 41721; 49 USC 44101; 49 USC 44106; 49 USC 44111; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46504; 49 USC 46506; 49 USC 46507; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47531

CFR Citation:

14 CFR 1; 14 CFR 135

Legal Deadline:

None

Abstract:

This rulemaking would change equipment and operating requirements for commercial helicopter operations, including many specifically for helicopter air ambulance operations. This rulemaking is necessary to increase crew, passenger, and patient safety. The intended effect is to implement the National Transportation Safety Board, Aviation Rulemaking Committee, and internal FAA recommendations.

Statement of Need:

Since 2002, there has been an increase in fatal helicopter air ambulance accidents. The FAA has undertaken initiatives to address common factors that contribute to helicopter air ambulance accidents including issuing notices, handbook bulletins, operations specifications, and advisory circulars (ACs). This rule would codify many of those initiatives, as well as several NTSB and part 125/135 Aviation Rulemaking Committee recommendations. In addition, the House of Representatives and the Senate introduced legislation in the 111th Congress and in earlier sessions that would address several of the issues raised in this rulemaking.

Summary of Legal Basis:

This rulemaking is promulgated under the authority described in 49 U.S.C. 44701(a)(4), which requires the Administrator to promulgate regulations in the interest of safety for the maximum hours or periods of service of airmen and other employees of air carriers, and 49 U.S.C. 44701(a)(5), which requires the Administrator to promulgate regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security.

Alternatives:

Alternative One: The alternative would change the compliance date from three years to four years after the effective rule date to install all required pieces of equipment. This would help small business owners cope with the burden of the expenses because they would be able to integrate these pieces of equipment over a longer period of time. This alternative is not preferred because it would delay safety enhancements.

Alternative Two: The alternative would exclude the HTAWS unit from this proposal. Although this alternative would reduce annualized costs to small air ambulance operators by approximately 12 percent and the ratio of annualized cost to annual revenue would decrease from a range of between 1.76 percent and 1.88 percent to a range of between 1.55 percent and 1.65 percent, the annualized cost would still be significant for all 35 small air ambulance operators. The alternative not only does not eliminate the problem for a substantial number of small entities, but also would reduce safety. The HTAWS is an outstanding tool for situational awareness in all aspects of flying including day, night, and instrument meteorological conditions. Therefore the FAA believes that this equipment is a significant enhancement for safety.

Alternative Three: The alternative would increase the requirement of certificate holders from 10 to 15 helicopters or more that are engaged in helicopter air ambulance operations to have an Operations Control Center. The FAA believes that operators with 10 or more helicopters engaged in air ambulance operations would cover 66 percent of the total population of the air ambulance fleet in the U.S. The FAA believes that operators with 15 or more helicopters would decrease the coverage of the population to 50 percent. Furthermore, complexity issues arise and considerably increase with operators of more than 10 helicopters.

All alternatives above are not considered to be acceptable by the FAA in accordance with 5 U.S.C. 603(c).

Anticipated Cost and Benefits:

The FAA is currently developing costs and benefits.

Risks:

Helicopter air ambulance operations have several characteristics that make them unique, including that they are not limited to airport locations for picking up and dropping off patients, but may pick up a person at a roadside accident scene and transport him or her directly to a hospital. Helicopter air ambulance operations are also often time-sensitive. A helicopter air ambulance flight may be crucial to getting a donor organ or critically ill or injured patient to a medical facility as efficiently as possible. Additionally, patients generally are not able to choose the helicopter air ambulance company that provides them with transportation. Despite the fact that there are unique aspects to helicopter air ambulance operations, they remain, at their core, air transportation. Accordingly, the FAA has the responsibility for ensuring the safety of these operations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 2120–AJ53

DOT—FAA

FINAL RULE STAGE

116. +FLIGHT AND DUTY TIME LIMITATIONS AND REST REQUIREMENTS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 41706; 49 USC 44101;

49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44705; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44712; 49 USC 44713; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 45101; 49 USC 45102; 49 USC 45103; 49 USC 45104; 49 USC 45105; 49 USC 46105

CFR Citation:

14 CFR 121; 14 CFR 135

Legal Deadline:

None

Abstract:

This rulemaking would establish one set of flight time limitations, duty period limits, and rest requirements for pilots. The rulemaking is necessary to ensure that pilots have the opportunity to obtain sufficient rest to perform their duties. The objective of the rule is to contribute to and to improve aviation safety. This rulemaking is related to the following: An NPRM (RIN 2120-AF63), and a Withdrawal (RIN 2120-AI93).

Statement of Need:

The FAA recognizes that the effects of pilot fatigue are universal, and the profiles of different types of operations are similar enough that the same fatigue mitigations should be applied across all types of operations.

In June 2009, the FAA established the Flight and Duty Time Limitations and Rest Requirements Aviation Rulemaking Committee (ARC) whose membership includes labor, industry, and FAA representatives. The ARC reviewed current approaches to mitigating fatigue and in September 2009 made recommendations to the Associate Administrator for Aviation Safety on how to address this issue in FAA regulations.

The ARC considered:

* An approach to fatigue that consolidates and replaces existing regulatory requirements;

* Current fatigue science, data, and information;

* How current international standards address fatigue; and

* The use of Fatigue Risk Management Systems.

Based on ARC recommendations, the FAA is developing new regulations on crewmember flight, duty and rest requirements.

Summary of Legal Basis:

The FAA's authority to issue rules on aviation safety is found in title 49 of the United States Code. This rulemaking is promulgated under the authority described in 49 U.S.C. 44701(a)(5), which requires the Administrator to promulgate regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security.

Alternatives:

The FAA is currently reviewing alternatives to rulemaking.

Anticipated Cost and Benefits:

The proposed rule is designated as ''significant regulatory action'' as designated in section 3(f) of Executive Order 12866. In addition, the proposed rule would have a significant economic impact on a substantial number of small entities. Quantifiable costs and benefits to be determined.

Risks:

The FAA will review specific risks associated with this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	09/14/10	75 55852
NPRM Comment Period End	11/15/10	
Final Action	07/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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Related RIN: Related to 2120–AF63, Related to 2120–AI93

RIN: 2120–AJ58

DOT—Federal Motor Carrier Safety Administration (FMCSA)

PROPOSED RULE STAGE

117. +CARRIER SAFETY FITNESS DETERMINATION

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

sec 4009 of TEA–21

CFR Citation:

49 CFR 385

Legal Deadline:

None

Abstract:

This rulemaking would revise 49 CFR part 385, Safety Fitness Procedures, in accordance with the Agency's major new initiative, Comprehensive Safety Analysis (CSA) 2010. CSA 2010 is a new operational model FMCSA plans to implement that is designed to help the Agency carry out its compliance and enforcement programs more efficiently and effectively. Currently, the safety fitness rating of a motor carrier is determined based on the results of a very labor intensive compliance review conducted at the carrier's place of business. Aside from roadside inspections and new audits, the compliance review is the Agency's primary intervention. Under CSA 2010, FMCSA would propose to implement a broader array of progressive interventions, some of which allow FMCSA to make contact with more carriers. Through this rulemaking FMCSA would establish safety fitness determinations based on safety data consisting of crashes, inspections, and violation history rather than the standard compliance review. This will enable the Agency to assess the safety performance of a greater segment of the motor carrier industry with the goal of further reducing large truck and bus crashes and fatalities.

Statement of Need:

Because of the time and expense associated with the on-site compliance review, only a small fraction of carriers (approximately 12,000) receive a safety fitness determination each year. Since the current safety fitness determination

process is based exclusively on the results of an on site compliance review, the great majority of carriers subject to FMCSA jurisdiction do not receive a timely determination of their safety fitness.

The proposed methodology for determining motor carrier safety fitness should correct the deficiencies of the current process. In correcting these deficiencies, FMCSA has made a concerted effort to develop a ''transparent'' method for the SFD that would allow each motor carrier to understand fully how FMCSA established that carrier's specific SFD.

Summary of Legal Basis:

This rule is based primarily on the authority of 49 U.S.C. 31144, which directs the Secretary of Transportation to ''determine whether an owner or operator is fit to operate a commercial motor vehicle'' and to ''maintain by regulation a procedure for determining the safety fitness of an owner or operator.'' This statute was first enacted as part of the Motor Carrier Safety Act of 1984, section 215, Public Law 98-554, 98 Stat. 2844 (Oct. 30, 1984).

The proposed rule also relies on the provisions of 49 U.S.C. 31133, which gives the Secretary ''broad administrative powers to assist in the implementation'' of the provisions of the Motor Carrier Safety Act now found in chapter 311 of title 49, U.S.C. These powers include, among others, authority to conduct inspections and investigations, compile statistics, require production of records and property, prescribe recordkeeping and reporting requirements and to perform other acts considered appropriate. These powers are used to obtain the data used by the Safety Management System and by the proposed new methodology for safety fitness determinations.

Under 49 CFR 1.73(g), the Secretary has delegated the authority to carry out the functions in subchapters I, III, and IV of chapter 311, title 49, U.S.C., to the FMCSA Administrator. Sections 31133 and 31144 are part of subchapter III of chapter 311.

Alternatives:

The Agency has been considering only two alternatives: The no-action alternative and the proposal.

Anticipated Cost and Benefits:

The Agency continues to estimate the crash-reduction benefit at this time.

Risks:

A risk of incorrectly identifying a compliant carrier as non-compliant—and consequently subjecting the carrier to unnecessary expenses—has been analyzed and has been found to be negligible under the process being proposed.

Timetable:

Action	Date	FR Cite
NPRM	05/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 2126–AB11

DOT—FMCSA

118. +ELECTRONIC ON–BOARD RECORDERS AND HOURS OF SERVICE SUPPORTING DOCUMENTS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

49 USC 31502; 31136(a); PL 103.311; 49 USC 31137(a)

CFR Citation:

49 CFR 350; 49 CFR 385; 49 CFR 396; 49 CFR 395

Legal Deadline:

None

Abstract:

This rulemaking will consider revisions to RIN 2126-AA89 (Electronic On-Board Recorders for Hours of Service Drivers) to expand the number of motor carriers required to install and operate Electronic On-Board Recorders (EOBRs). FMCSA is consolidating this follow-up to the EOBR rule with the Hours Of Service Of Drivers: Supporting Documents rulemaking for development of a single NPRM in RIN 2126-AB20. In addressing Hours of Service Supporting Documents requirements in this new rulemaking, FMCSA will consider reducing or eliminating current paperwork burdens associated with supporting documents in favor of expanded EOBR use. On January 15, 2010, the American Trucking Associations (ATA) filed a Petition for a Writ of Mandamus in the United States Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 10-1009). ATA petitioned the court to direct FMCSA to issue an NPRM on ''supporting documents'' in conformance with the requirements set forth in section 113 of mandamus on September 30, 2010, ordering FMCSA to issue an NPRM on the supporting document regulations by December 30, 2010.

Statement of Need:

This rulemaking proposes to improve safety on the Nation's highways by increasing compliance with the Hours of Service regulations. This rulemaking proposes to require the use of Electronic On-Board Recorders by an expanded population, and to clarify and specify requirements related to supporting documents.

Summary of Legal Basis:

Section 31502 of title 49 of the United States Code provides that ''[t]he Secretary of Transportation may prescribe requirements for: (1) Qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.'' This rulemaking addresses ''safety of operation and equipment'' of motor carriers and ''standards of equipment'' of motor private carriers and, as such, is well within the authority of 49 U.S.C. 31502. The rulemaking would allow motor carriers to use EOBRs to document drivers? compliance with the HOS requirements; require some

noncompliant carriers to install, use, and maintain EOBRs for this purpose; and update existing performance standards for on-board recording devices.

Section 31136 of title 49 of the United States Code provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary to ''prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles. At a minimum, the regulations shall ensure that: (1) Commercial motor vehicles are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and (4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators.''

Alternatives:

To be determined.

Anticipated Cost and Benefits:

FMCSA has not yet fully assessed the costs and benefits that might be associated with this activity.

Risks:

FMCSA has not yet fully assessed the risks that might be associated with this activity.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

None

Additional Information:

The Agency previously published an NPRM on this subject under RIN 2126-AA76, ''Hours of Service of Drivers; Supporting Documents'' (63 FR 19457, Apr. 20, 1998) and an SNPRM, ''Hours of Service of Drivers; Supporting Documents'' (69 FR 63997, Nov. 3, 2004). The Agency withdrew the SNPRM on October 25, 2007, 72 FR 60614. The previous proceeding can be found in docket No. FMCSA-1998-3706.

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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Related RIN: Related to 2126–AA89, Related to 2126–AA76

RIN: 2126–AB20

DOT—FMCSA

119. +HOURS OF SERVICE

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

49 USC 31502(b)

CFR Citation:

49 CFR 395

Legal Deadline:

NPRM, Judicial, July 26, 2010, NPRM to OMB.

Final, Judicial, July 26, 2011.

Abstract:

On October 26, 2009, Public Citizen, et al. (Petitioners), and FMCSA entered into a settlement agreement under which Petitioners' petition for judicial review of the November 19, 2008, Final Rule on drivers' hours of service will be held in abeyance pending the publication of an NPRM reevaluating the Hours of Service rule.

Statement of Need:

The goals of this hours of service (HOS) proposed rule are to improve safety while ensuring that the requirements would not have an adverse impact on driver health. The proposed rule would also provide drivers with the flexibility to obtain rest when they need it and to adjust their schedules to account for unanticipated delays. FMCSA has also attempted to make the proposed rule easy to understand (though not at the expense of safety) and readily enforceable. The impact of HOS rules on commercial motor vehicle (CMV) safety is difficult to separate from the many other factors that affect heavy-vehicle crashes. The 2008 FMCSA final rule on HOS noted that ''FMCSA has consistently been cautious about inferring causal relationships between the HOS requirements and trends in overall motor carrier safety. The Agency believes that the data show no decline in highway safety since the implementation of the 2003 rule and its re-adoption in the 2005 rule and the 2007 [interim final rule]'' (73 FR 69567, 69572, November 19, 2008). While that statement remains correct, the total number of crashes, though declining, is still unacceptably high. FMCSA believes that the modified HOS rules proposed, coupled with the Agency's many other safety initiatives and assisted by the actions of an increasingly safety-conscious motor carrier industry, would result in continued reductions in fatigue-related CMV crashes and fatalities. Furthermore, this proposed rule is intended to protect drivers from the serious health problems associated with excessively long work hours, without significantly compromising their ability to do their jobs and earn a living.

Summary of Legal Basis:

The HOS regulations proposed today concern the ''maximum hours of service of employees of . . . a motor carrier'' (49 U.S.C. 31502(b)(1)) and the ''maximum hours of service of employees of . . . a motor private carrier'' (49 U.S.C. 31502(b)(2)). The adoption and enforcement of such rules were specifically authorized by the Motor Carrier Act of 1935.

The 1984 Act provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary of Transportation to ''prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles.'' Although this authority is very broad, the 1984 Act also includes specific requirements: ''At a minimum, the regulations shall ensure that (1) commercial motor vehicles are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and (4) the operation of commercial motor vehicles does not have a deleterious effect on the

physical condition of the operators'' (49 U.S.C. 31136(a)).

Alternatives:

FMCSA considered and assessed the consequences of four potential regulatory options. Option 1 is the no-action alternative, which would leave the existing rule in place. Options 2, 3, and 4 each would adopt several revisions to the rule.

Anticipated Cost and Benefits:

The Agency's analysis shows an annualized cost for the various alternatives of about $1 billion, with against annual safety and health benefits estimated to range from below $300 million to more than $2 billion under different assumptions.

Risks:

The level of fatigue involvement in truck crashes is uncertain.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Organizations

Government Levels Affected:

None

Additional Information:

Docket FMCSA-2004-19608

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 2126–AB26

DOT—FMCSA

120. +DRIVERS OF COMMERCIAL VEHICLES: RESTRICTING THE USE OF CELLULAR PHONES (SECTION 610 REVIEW)

Priority:

Other Significant

Legal Authority:

PL 98–554

CFR Citation:

49 CFR 383; 49 CFR 384; 49 CFR 390; 49 CFR 391; 49 CFR 392

Legal Deadline:

None

Abstract:

This rulemaking would restrict the use of mobile telephones while operating a commercial motor vehicle. This rulemaking is in response to Federal Motor Carrier Safety Administration-sponsored studies that analyzed safety incidents and distracted drivers. This rulemaking addresses an item on the National Transportation Safety Board's ''Most Wanted List'' of safety recommendations.

Statement of Need:

This rulemaking stems from the Distracted Driver Summit on September 30 and October 1, 2009. This proposed rule would restrict the use of mobile telephones by all commercial motor vehicle drivers (CMV). This NPRM addresses the NTSB ''most wanted'' item associated with a 2004 crash in Alexandria, Virginia. Furthermore, it would addresses recent crashes in Kentucky and North Carolina that according to media reports may have involved cell phone use. This rulemaking would improve safety on the Nation's highways by reducing the prevalence of distracted driving-related crashes, fatalities, and injuries involving drivers of CMVs.

Summary of Legal Basis:

Motor Carrier Safety Act of 1984 (1984 Act), 49 U.S.C. chapter 311, and the Commercial Motor Vehicle Safety Act of 1986 (1986 Act), 49 U.S.C. chapter 313.

Alternatives:

FMCSA considered several options for restricting mobile telephone use and provided analysis of their safety and economic or environmental impacts.

Anticipated Cost and Benefits:

The Agency is currently finalizing several options to provide an accurate statement of costs and benefits.

Risks:

FMCSA is continuing its analysis of the risk that might be associated with mobile telephone use.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Federalism:

This action may have federalism implications as defined in EO 13132.

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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Related RIN: Related to 2126–AB22

RIN: 2126–AB29

DOT—FMCSA

FINAL RULE STAGE

121. +NATIONAL REGISTRY OF CERTIFIED MEDICAL EXAMINERS

Priority:

Other Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

PL 109–59 (2005), sec 4116

CFR Citation:

49 CFR 390; 49 CFR 391

Legal Deadline:

Final, Statutory, August 10, 2006.

Abstract:

This rulemaking would establish training, testing and certification

standards for medical examiners responsible for certifying that interstate commercial motor vehicle drivers meet established physical qualifications standards; provide a database (or National Registry) of medical examiners that meet the prescribed standards for use by motor carriers, drivers, and Federal and State enforcement personnel in determining whether a medical examiner is qualified to conduct examinations of interstate truck and bus drivers; and require medical examiners to transmit electronically to FMCSA the name of the driver and a numerical identifier for each driver that is examined. The rulemaking would also establish the process by which medical examiners that fail to meet or maintain the minimum standards would be removed from the National Registry. This action is in response to section 4116 of Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users.

Statement of Need:

In enacting the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) [Pub. L. 109-59, August 10, 2005], Congress recognized the need to improve the quality of the medical certification of drivers. SAFETEA-LU addresses the requirement for medical examiners to receive training in physical examination standards and be listed on a national registry of medical examiners as one step toward improving the quality of the commercial motor vehicle (CMV) driver physical examination process and the medical fitness of CMV drivers to operate CMVs. The safety impact will result from ensuring that medical examiners have completed training and testing to demonstrate that they fully understand FMCSA's physical qualifications standards and are capable of applying those standards consistently, thereby decreasing the likelihood that a medically unqualified driver may obtain a medical certificate.

Summary of Legal Basis:

The fundamental legal basis for the NRCME program comes from 49 U.S.C. 31149(d), which requires FMCSA to establish and maintain a current national registry of medical examiners that are qualified to perform examinations of CMV drivers and to issue medical certificates. FMCSA is required to remove from the registry any medical examiner who fails to meet or maintain qualifications established by FMCSA. In addition, in developing its regulations, FMCSA must consider both the effect of driver health on the safety of CMV operations and the effect of such operations on driver health, 49 U.S.C. 31136(a).

Alternatives:

The rulemaking is statutorily mandated. Thus, the Agency must establish the National Registry.

Anticipated Cost and Benefits:

FMCSA continues to finalize the costs and benefits associated with this rulemaking based on comments received to the NPRM.

Risks:

FMCSA has not yet fully assessed the risks that might be associated with this activity.

Timetable:

Action	Date	FR Cite
NPRM	12/01/08	73 FR 73129
NPRM Comment Period End	01/30/09	
Final Rule	07/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 2126–AA97

DOT—National Highway Traffic Safety Administration (NHTSA)

PRERULE STAGE

122. ● +PASSENGER CAR AND LIGHT TRUCK CORPORATE AVERAGE FUEL ECONOMY STANDARDS MYS 2017 AND BEYOND

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

49 USC 32902; delegation of authority at 49 CFR 1.50

CFR Citation:

49 CFR 533

Legal Deadline:

Final, Statutory, April 1, 2015.

Abstract:

This rulemaking would establish Corporate Average Fuel Economy (CAFE) standards for light trucks and passenger cars for model years 2017 and beyond. This rulemaking would respond to requirements of the Energy Policy and Conservation Act, as amended by the Energy Independence and Security Act of 2007. The statute requires that CAFE standards be prescribed separately for passenger automobiles and non-passenger automobiles to achieve a combined fleet fuel economy of at least 35 mpg by model year 2020. For model years 2021 and beyond, the statute requires that the average fuel economy required to be attained by each fleet of passenger and non-passenger automobiles be the maximum feasible for each model year. The law requires the standards be set at least 18 months prior to the start of the model year. On May 21, 2010, President Obama issued a memorandum directing NHTSA and EPA to conduct a joint rulemaking (NHTSA regulating fuel economy and EPA regulating greenhouse gas emissions) and to issue a Notice of Intent to Issue a Proposed Rule (NOI) by September 30, 2010.

Statement of Need:

This rulemaking would respond to requirements of the Energy Policy and Conservation Act, as amended by the Energy Independence and Security Act

of 2007. The statute requires that corporate average fuel economy standards be prescribed separately for passenger automobiles and non-passenger automobiles to achieve a combined fleet fuel economy of at least 35 mpg by model year 2020. For model years 2021 and beyond, the statute requires that the average fuel economy required to be attained by each fleet of passenger and non-passenger automobiles be the maximum feasible for each model year. The law requires the standards be set at least 18 months prior to the start of the model year, and for model year 2017, standards must be set by April 1, 2015. On May 21, 2010, President Obama issued a memorandum directing NHTSA and EPA conduct joint rulemaking (NHTSA regulating fuel economy and EPA regulating greenhouse gas emissions) and to issue a Notice of Intent to Issue a Proposed Rule (NOI) by September 30, 2010.

Summary of Legal Basis:

Section 32910(d) of title 49 of the United States Code provides that the Administrator may prescribe regulations necessary to carry out his duties under Chapter 329, Automobile fuel economy.

Alternatives:

The agency is not pursuing any alternatives.

Anticipated Cost and Benefits:

The costs and benefits of the potential changes addressed in this action have not yet been assessed.

Risks:

Depending upon how manufacturers use weight reduction to meet the fuel economy standards, there is a potential impact on motor vehicle safety. The 2010 NHTSA analysis shows that a 100 pound reduction in weight, while keeping footprint constant, decreases the fatality rate for light trucks over 3,870 lbs. but increases the fatality rate for light trucks less than 3,870 lbs. and for all passenger cars. An interagency team from DOT, EPA, and DOE are further examining this issue.

Timetable:

Action	Date	FR Cite
Notice of Intent (NOI)	10/13/10	75 FR 62739
NOI Comment Period End	10/31/10	
Supplemental NOI	12/00/10	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

Federalism:

This action may have federalism implications as defined in EO 13132.

Energy Effects:

Statement of Energy Effects planned as required by Executive Order 13211.

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 2127–AK79

DOT—NHTSA

PROPOSED RULE STAGE

123. +FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 111, REARVIEW MIRRORS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; 49 USC 322; delegation of authority at 49 CFR 1.50

CFR Citation:

49 CFR 571.111

Legal Deadline:

Other, Statutory, February 28, 2009, Initiate rulemaking.

Final, Statutory, February 28, 2011.

Abstract:

This rulemaking would amend Federal Motor Vehicle Standard No. 111; Rearview Mirrors, to reflect requirements contained in the Cameron Gulbransen Kids Transportation Safety Act of 2007. The Act requires that NHTSA expand the required field of view to enable the driver of a motor vehicle to detect areas behind the motor vehicle to reduce death and injury resulting from backing incidents, particularly incidents involving small children and disabled persons. According to the Act, such a standard may be met by the provision of additional mirrors, sensors, cameras, or other technology to expand the driver's field of view.

Statement of Need:

Vehicles that are backing up have a potential to create a danger to pedestrians and pedicyclists. NHTSA estimates that backover crashes involving light vehicles account for an estimated 228 fatalities and 17,000 injuries annually. In analyzing the data further, we found that many of these incidents occur off public roadways, in areas such as driveways and parking lots and that they involve parents (or caregivers) accidentally backing over children. We have also found that children represent approximately 44 percent of the fatalities, which we believe to be unique to this safety problem.

Summary of Legal Basis:

Section 3011, title 49, of the U.S.C., states that the Secretary shall prescribe motor vehicle safety standards.

Alternatives:

NHTSA is evaluating additional mirrors, sensors, cameras, and other technology to address this safety problem.

Anticipated Cost and Benefits:

Costs: $723M to $2.4B

Benefit: Reduction of 95 to 112 fatalities and 7.072 to 8.374 injuries.

Risks:

The Agency believes there are no substantial risks to this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	03/04/09	74 FR 9477
ANPRM Comment Period End	05/04/09	
NPRM	12/00/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 2127–AK43

DOT—NHTSA

124. ● +COMMERCIAL MEDIUM– AND HEAVY–DUTY ON–HIGHWAY VEHICLES AND WORK TRUCK FUEL EFFICIENCY STANDARDS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

49 USC 32902; delegation of authority at 49 CFR 1.50

CFR Citation:

49 CFR 523, 534, 535

Legal Deadline:

Other, Statutory, September 30, 2010, NHTSA Study.

Final, Statutory, September 28, 2012.

Abstract:

This rulemaking would respond to requirements of the Energy Policy and Conservation Act, as amended by the Energy Independence and Security Act of 2007. The statute requires that rulemaking begin with a report by the National Academy of Sciences evaluating medium-duty and heavy-duty truck fuel economy standards. The National Academy provided Congress and the NHTSA with this report on March 18, 2010. EISA then requires that NHTSA complete a study that examines the fuel efficiency of commercial medium- and heavy-duty on-highway vehicles and work trucks and determines the appropriate test procedures and methodologies for measuring the fuel efficiency of such vehicles, the appropriate metric for measuring the fuel efficiency of such vehicles, the range of factors that affect the fuel efficiency of these vehicles, and other factors that could impact a program to improve the fuel efficiency of these vehicles.

The NHTSA study was issued October 25, 2010. Once that study is completed, NHTSA has 24 months to complete a final rule establishing a fuel efficiency program for these vehicles. The law provides that the new standards must provide at least 4 full model years of regulatory leadtime and 3 full model years of regulatory stability (i.e., the standards must remain in effect for 3 years before they may be amended). On May 21, 2010, President Obama issued a memorandum directing NHTSA and EPA conduct a joint rulemaking (NHTSA regulating fuel efficiency and EPA regulating greenhouse gas emissions), and to issue a final rule by July 30, 2011.

Statement of Need:

Setting fuel consumption standards for commercial medium-duty and heavy-duty on-highway vehicles and work trucks will reduce fuel consumption, and will thereby improve U.S. energy security by reducing dependence on foreign oil, which has been a national objective since the first oil price shocks in the 1970s. Net petroleum imports now account for approximately 60 percent of U.S. petroleum consumption. World crude oil production is highly concentrated, exacerbating the risks of supply disruptions and price shocks. Tight global oil markets led to prices over $100 per barrel in 2008, with gasoline reaching as high as $4 per gallon in many parts of the U.S., causing financial hardship for many families and businesses. The export of U.S. assets for oil imports continues to be an important component of the historically unprecedented U.S. trade deficits. Transportation accounts for about 72 percent of U.S. petroleum consumption. Medium-duty and heavy-duty vehicles account for about 17 percent of transportation oil use, which means that they alone account for about 12 percent of all U.S. oil consumption.

Summary of Legal Basis:

Section 102 of EISA, codified at 49 U.S.C. 32902(k), requires NHTSA to develop a regulatory system for the fuel economy of commercial medium-duty and heavy-duty on-highway vehicles and work trucks in three steps: A study by the National Academy of Sciences (NAS), a study by NHTSA, and a rulemaking to develop the regulations themselves. Specifically, 49 U.S.C. 32902(k)(2) states that not later than 2 years after completion of the NHTSA study, DOT (by delegation, NHTSA), in consultation with the Department of Energy and EPA, shall develop a regulation to implement a ''commercial medium-duty and heavy-duty on-highway vehicle and work truck fuel efficiency improvement program designed to achieve the maximum feasible improvement.''

Alternatives:

NHTSA is evaluating nine alternatives; (1) heavy-duty engines, only (2) Class 8 combination tractors and engines in Class 8 tractors, (3) heavy-duty engines and Class 7 and 8 tractors, (4) heavy-duty engines, Class 7 and 8 tractors, and Class 2b/3 pickup trucks and vans, (5) NPRM Preferred Alternative: heavy-duty engines, tractors, and Class 2b through 8 vehicles, (6) heavy-duty engines, tractors, Class 2b through 8 vehicles and trailers, (7) heavy-duty engines, tractors, Class2b-8 vehicles, and trailers plus advanced hybrid power-train technology for Class 2b through 8 vocational vehicles, pickups and vans, (8)15 percent less stringent that the NPRM Preferred Alternative, covering heavy-duty engines, tractors, and Class 2b through 8 vehicles, (9) 20 percent more stringent that the NPRM Preferred Alternative, covering heavy-duty engines, tractors, and Class 2b through 8 vehicles.

Anticipated Cost and Benefits:

Estimated lifetime discounted costs, benefits and net benenfits for all heavy-duty vehicles projected to be sold in model years 2014-2018: Costs $7.7B, Benefits $49.0B, Net Benefits $41B (with 3% discount rate).

Risks:

The Agency believes there are no substantial risks to this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Energy Effects:

Statement of Energy Effects planned as required by Executive Order 13211.

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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Related RIN: Related to 2060–AP61

RIN: 2127–AK74

DOT—NHTSA

FINAL RULE STAGE

125. +EJECTION MITIGATION

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

49 USC 30111; 49 USC 30115; 49 USC 30117; 49 USC 30166; 49 USC 322; delegation of authority at 49 CFR 1.50

CFR Citation:

49 CFR 571.226

Legal Deadline:

Final, Statutory, October 1, 2009.

Abstract:

This rulemaking would create a new Federal Motor Vehicle Safety Standard (FMVSS) for reducing occupant ejection. Currently, there are over 52,000 annual ejections in motor vehicle crashes, and over 10,000 ejected fatalities per year. This rulemaking would propose new requirements for reducing occupant ejection through passenger vehicle side widows. The requirement would be an occupant containment requirement on the amount of allowable excursion through passenger vehicle side windows. The SAFETEA-LU legislation requires that: ''[t]he Secretary shall also initiate a rulemaking proceeding to establish performance standards to reduce complete and partial ejections of vehicle occupants from outboard seating positions. In formulating the standards the Secretary shall consider various ejection mitigation systems. The Secretary shall issue a final rule under this paragraph no later than October 1, 2009.'' The SAFETEA-LU legislation also requires that, if the Secretary determines that the subject final rule deadline cannot be met, the Secretary shall notify and provide an explanation to the Senate Committee on Commerce, Science and Transportation and the House of Representatives Committee on Energy and Commerce of the delay. On September 24, 2009, the Secretary provided appropriate notification to Congress that the final rule will be delayed until January 31, 2011.

Statement of Need:

The agency's annualized injury data from 1997 to 2008 show that there are 6,412 fatalities and 5,709 Maximum Abbreviated Injury Scale (MAIS) 3+ non-fatal serious injuries for occupants partially and completely ejected through side windows in vehicles with a gross vehicle weight rating (GVWR) less than 4,536 kg (10,000 lbs.). Sixty-six percent of the fatalities and 77 percent of the serious injuries are from ejections that involve a rollover as part of the crash event.

Summary of Legal Basis:

Section 30111, title 49 of the U.S.C., states that the Secretary shall prescribe motor vehicle safety standards. Section 10301 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) requires the Secretary to issue by October 1, 2009, an ejection mitigation final rule reducing complete and partial ejections of occupants from outboard seating positions. The SAFETEA-LU legislation also requires that if the Secretary determines that the subject final rule deadline cannot be met, the Secretary shall notify and provide explanation to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce of the delay. On September 24, 2009, the Secretary provided appropriate notification to Congress that the final rule will be delayed until January 31, 2011.

Alternatives:

The Agency is not pursuing any alternatives to reduce side window ejections of light vehicle occupants other than establishing FMVSS No. 226.

Anticipated Cost and Benefits:

The agency is reducing the population of partial and complete side window ejections through a series of rulemaking actions. These actions included adding a pole impact upgrade to FMVSS No. 214—Side Impact Protection (72 FR 51908) and promulgating FMVSS No. 126—Electronic Stability Control Systems (72 FR 17236). In the NPRM for this rulemaking, published December 2, 2009 (74 FR 63180), we estimated that promulgating FMVSS No. 226 will reduce the remaining population of ejection fatalities and serious injuries by the ranges of 390 to 402 and 296 to 310, respectively. The cost per equivalent fatality at a seven percent discount rate was estimated to be $2.0 million.

Risks:

The Agency believes there are no substantial risks to this rulemaking and that only beneficial outcomes will occur as the industry moves to reduce side window ejections of light vehicle occupants.

Timetable:

Action	Date	FR Cite
NPRM	12/02/09	74 FR 63180
NPRM Comment Period End	02/01/10	
Final Action	01/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 2127–AK23

DOT—Federal Railroad Administration (FRA)

PROPOSED RULE STAGE

126. +HOURS OF SERVICE: PASSENGER TRAIN EMPLOYEES (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

PL 110–432, Div A, 122 Stat 4848 et seq; Rail Safety Improvement Act of 2008; sec 108(e) (49 USC 21109)

CFR Citation:

49 CFR 242

Legal Deadline:

NPRM, Statutory, October 16, 2011.

Abstract:

This rulemaking would establish hours of service requirements for train employees engaged in commuter and intercity passenger rail transport.

Statement of Need:

Required by the Rail Safety Improvement Act of 2008, Public Law 110-432.

Summary of Legal Basis:

Required by the Rail Safety Improvement Act of 2008, Public Law 110-432.

Alternatives:

The Rail Safety Improvement Act of 2008 (RSIA of 2008) provides, in section 108 (d), that if FRA does not have a final regulation in effect by October 16, 2011, the hours of service requirements for train employees found in 49 U.S.C. section 21103, as revised by section 108 (b) of the RSIA of 2008, will go into effect for train employees of commuter and intercity passenger railroads.

Anticipated Cost and Benefits:

To be determined.

Risks:

The regulation is expected to reduce the risk of accidents and injuries caused or contributed to by fatigue, because it will require commuter and intercity passenger railroads to analyze the risk for fatigue in the schedules worked by their train employees, and will require that they mitigate the fatigue risks in those schedules demonstrating a risk for a level of fatigue at which safety may be compromised.

Timetable:

Action	Date	FR Cite
NPRM	05/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

None

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 2130–AC15

DOT—Federal Transit Administration (FTA)

PROPOSED RULE STAGE

127. ● +MAJOR CAPITAL INVESTMENT PROJECTS

Priority:

Other Significant

Legal Authority:

49 USC 5309

CFR Citation:

49 CFR 611

Legal Deadline:

Final, Statutory, April 7, 2006.

Abstract:

This rulemaking, mandated specifically by 49 U.S.C. 5309(e)(9), is intended to make changes to the regulations that govern the New Starts discretionary funding program authorized by 49 U.S.C. 5309. FTA's initial rulemaking on this subject (RIN 2132-AA81), initiated to meet the statutory deadline, was terminated as the result of subsequent congressional action prohibiting FTA from issuing a rule.

Statement of Need:

Section 3011 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU) made a number of changes to 49 U.S.C. 5309, which authorizes the Federal Transit Administration's (FTA) fixed guideway capital investment grant program known as ''New Starts.'' SAFETEA-LU also added created a new category of major capital investments that have a total project cost of less than $250 million and that are seeking less than $75 million in section 5309 major capital investment funds. This rulemaking proposes to implement those changes and a number of other changes that FTA believes will improve the process for evaluating major capital investment projects.

Summary of Legal Basis:

Section 5309, title 49, of the United States Code requires the Secretary to promulgate regulations for the evaluation and selection of major capital investment projects that have a total project cost of less than $250 million, and that are seeking less than $75 million in section 5309 major capital investment funds.

Alternatives:

This rulemaking is mandated by section 3011 of SAFETEA-LU, so there is not an alternative to pursuing rulemaking. Within the rulemaking process, FTA has already issued and has received comments on an Advance Notice of Proposed Rulemaking that will inform the various options FTA might pursue in the Notice of Proposed Rulemaking.

Anticipated Cost and Benefits:

The single largest change in the New Starts program is the creation in SAFETEA-LU of the ''Small Starts'' program. Over the first 10 years of the Small Starts program, the cumulative impact of transfer from New Starts to Small Starts will likely be $1.9 Billion, with a Net Present Value of $1.311 Billion using a discount rate of 7 percent. This effect is difficult to characterize in terms of cost or benefit, as it simply represents a ''transfer of a transfer'' from one governmental entity to another.

Risks:

The proposed rulemaking provides a framework for a discretionary grant program; it does not propose to regulate other than for applicants for Federal funds. As such, the rulemaking poses no risks for the regulated community, other than for the risks inherent in pursuing Federal funds that might not be awarded if a project fails to satisfy the eligibility and evaluation criteria in the proposed regulatory structure.

Timetable:

Action	Date	FR Cite
ANPRM	06/03/10	75 FR 31383
ANPRM Comment Period End	08/02/10	
NPRM	06/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 2132–AB02

DOT—Pipeline and Hazardous Materials Safety Administration (PHMSA)

PROPOSED RULE STAGE

128. ● +HAZARDOUS MATERIALS: LIMITING THE USE OF MOBILE TELEPHONES BY HIGHWAY

Priority:

Other Significant

Legal Authority:

Not Yet Determined

CFR Citation:

49 CFR 177

Legal Deadline:

None

Abstract:

This rulemaking would limit the use of mobile telephones by drivers during the operation of a motor vehicle containing a quantity of hazardous materials requiring placarding under part 172 of the 49 CFR or any quantity of a select agent or toxin listed in 42 CFR part 73. Additionally, in accordance with requirements proposed by the Federal Motor Carrier Safety Administration (FMCSA), motor carriers would be prohibited from requiring or allowing drivers of covered motor vehicles to engage in the use of mobile telephones while driving. This rulemaking would improve health and safety on the Nation's highways by reducing the prevalence of distracted driving-related crashes, fatalities, and injuries involving drivers of commercial motor vehicles.

Statement of Need:

This rulemaking expands on mobile phone limitations under development by FMCSA that would limit the use of mobile phones by drivers transporting a quantity of hazardous materials requiring placarding under part 172 of the 49 CFR or any quantity of a material listed as a select agent or toxin in 42 CFR part 73 in intrastate commerce. FMCSA's authority over motor carriers of these materials is limited to transportation in interstate commerce. The safety benefits associated with limiting the distractions caused by mobile phones are equally applicable to drivers transporting covered hazardous materials via intrastate as they are to interstate commerce. The use of a mobile phone while driving constitutes a safety risk to the motor vehicle driver, other motorists, and bystanders.

Summary of Legal Basis:

Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 et seq.)

Alternatives:

PHMSA will consider two alternatives:

1. Amend the HMR to expand the scope of the FMCSA NPRM to include those intrastate motor carriers and drivers that transport a quantity of hazardous materials requiring placarding under part 172 of the 49 CFR or any quantity of a material listed as a select agent or toxin in 42 CFR part 73; or

2. Take no action.

Anticipated Cost and Benefits:

Not yet calculated. However, the population of motor carriers affected will be less than 1,500. PHMSA expects costs to be minimal when compared to the risks of distracted driving.

Risks:

Risk to the public and regulated community from distracted driving-related crashes, fatalities, and injuries involving drivers of commercial motor vehicles transporting covered hazardous materials in intrastate commerce.

Timetable:

Action	Date	FR Cite
NPRM	09/17/10	75 FR 56972
NPRM Comment Period Extended	11/16/10	75 FR 66912
NPRM Comment Period End	11/16/10	
NPRM Comment Period Extended End	12/03/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

HM-256A

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 2137–AE65

DOT—PHMSA

FINAL RULE STAGE

129. ● +HAZARDOUS MATERIALS: LIMITING THE USE OF ELECTRONIC DEVICES BY HIGHWAY

Priority:

Other Significant

Legal Authority:

Not Yet Determined

CFR Citation:

49 CFR 177

Legal Deadline:

None

Abstract:

This rulemaking would restrict the use of electronic devices by drivers during the operation of a motor vehicle containing a quantity of hazardous materials requiring placarding under part 172 of the 49 CFR or any quantity of a material listed as a select agent or toxin in 42 CFR part 73. Additionally, in accordance with requirements proposed by the Federal Motor Carrier Safety Administration (FMCSA) motor carriers are prohibited from requiring or allowing drivers of covered motor vehicles to engage in texting while driving. This rulemaking would improve health and safety on the Nation's highways by reducing the prevalence of distracted driving-related crashes, fatalities, and injuries involving drivers of commercial motor vehicles.

Statement of Need:

This rulemaking expands on the limitations on wireless communications proposed by FMCSA's April 1, 2010, NPRM to the transportation of a quantity of hazardous materials requiring placarding under part 172 of the 49 CFR or any quantity of a material listed as a select agent or toxin in 42 CFR part 73 in intrastate commerce. FMCSA's authority over motor carriers of these materials is limited to transportation in interstate commerce. The safety benefits associated with limiting the distractions caused by electronic devices are equally applicable to drivers transporting covered hazardous materials via intrastate as they are to interstate commerce. The use of an electronic device while driving constitutes a safety risk to the motor vehicle driver, other motorists, and bystanders.

Summary of Legal Basis:

Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 et seq.)

Alternatives:

PHMSA considered two alternatives:

1. Amend the HMR to expand the scope of the FMCSA NPRM to include those intrastate motor carriers and drivers that transport a quantity of hazardous materials requiring placarding under part 172 of the 49 CFR or any quantity of a material listed as a select agent or toxin in 42 CFR part 73; or

2. Take no action.

Anticipated Cost and Benefits:

PHMSA estimates that this proposed rule will cost $5,227 annually. Additionally, PHMSA has not identified a significant increase in crash risk associated with drivers? strategies for complying with this proposed rule. As indicated in the regulatory evaluation, a crash resulting in property damage only (PDO) averages approximately $17,000 in damages. Consequently, the texting restriction would have to eliminate just one PDO crash every 3.25 years for the benefits of this proposed rule to exceed the costs.

Risks:

Risk to the public and regulated community from distracted driving-related crashes, fatalities, and injuries involving drivers of commercial motor vehicles transporting covered hazardous materials in intrastate commerce.

Timetable:

Action	Date	FR Cite
NPRM	09/27/10	75 FR 59197
NPRM Comment Period End	10/27/10	
Final Rule	03/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

HM-256

URL For More Information:

www.regulations.gov

URL For Public Comments:

www.regulations.gov

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RIN: 2137–AE63

BILLING CODE 4910–9X–S

DEPARTMENT OF THE TREASURY (TREAS)

Statement of Regulatory Priorities

The primary missions of the Department of the Treasury are:

To promote prosperous and stable American and world economies, including promoting domestic economic growth and maintaining our Nation's leadership in global economic issues, supervising national banks and thrift institutions, and helping to bring residents of distressed communities into the economic mainstream.

To manage the Government's finances by protecting the revenue and collecting the correct amount of revenue under the Internal Revenue Code, overseeing customs revenue functions, financing the Federal Government and managing its fiscal operations, and producing our Nation's coins and currency.

To safeguard the U.S. and international financial systems from those who would use these systems for illegal purposes or to compromise U.S. national security interests, while keeping them free and open to legitimate users.

Consistent with these missions, most regulations of the Department and its constituent bureaus are promulgated to interpret and implement the laws as enacted by the Congress and signed by the President. It is the policy of the Department to comply with requirements to issue a notice of proposed rulemaking and carefully consider public comments before adopting a final rule. Also, in particular cases, the Department invites interested parties to submit views on rulemaking projects while a proposed rule is being developed.

In response to the events of September 11, 2001, the President signed the USA PATRIOT Act of 2001 into law on October 26, 2001. Since then, the Department has accorded the highest priority to developing and issuing regulations to implement the provisions in this historic legislation that target money laundering and terrorist financing. These efforts, which will continue during the coming year, are reflected in the regulatory priorities of the Financial Crimes Enforcement Network (FinCEN).

On July 21, 2010, the President signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, 124 Stat. 1376). Over the next several months, the Department will continue implementing the Act, including promulgating regulations required under the Act.

To the extent permitted by law, it is the policy of the Department to adhere to the regulatory philosophy and principles set forth in Executive Order 12866 and to develop regulations that maximize aggregate net benefits to society while minimizing the economic and paperwork burdens imposed on persons and businesses subject to those regulations.

Emergency Economic Stabilization Act

On October 3, 2008, the President signed the Emergency Economic Stabilization Act of 2008 (EESA) (Pub. L. 110-334). Section 101(a) of EESA authorizes the Secretary of the Treasury to establish a Troubled Asset Relief Program (TARP) to ''purchase, and to make and fund commitments to purchase, troubled assets from any financial institution on such terms and conditions as are determined by the Secretary and in accordance with this Act and policies and procedures developed and published by the Secretary.''

EESA provides authority to issue regulations and guidance to implement the program. Regulations and guidance required by EESA include conflicts of interest, executive compensation, and tax guidance. The Secretary is also charged with establishing a program that will guarantee principal of, and interest on, troubled assets originated or issued prior to March 14, 2008.

The Department has issued guidance and regulations and will continue to provide program information through the next year. Regulatory actions taken to date include the following:

Executive compensation. In October 2008, the Department issued an interim final rule that set forth executive compensation guidelines for the TARP Capital Purchase Program (73 FR 62205). Related tax guidance on executive compensation was announced in IRS Notice 2008-94. In addition, among other EESA tax guidance, the IRS issued interim guidance regarding loss corporation and ownership changes in Notice 2008-100, providing that any shares of stock owned by the Department of the Treasury under the Capital Purchase Program will not be considered to cause Treasury's ownership in such corporation to increase. On June 15, 2009, the Department issued a revised interim final rule that sets forth executive compensation guidelines for all TARP program participants (74 FR 28394), implementing amendments to the executive compensation provisions of EESA made by the American Recovery and Reinvestment Act of 2009 (Pub. L.111-5). Public comments on the revised interim final rule regarding executive compensation were due by August 14, 2009, and will be considered as part of the process of issuing a final rule on this subject.

Insurance program for trouble assets. On October 14, 2008, the Department released a request for public input on an insurance program for troubled assets.

Conflicts of interest. On January 21, 2009, the Department issued an interim final rule providing guidance on conflicts of interest pursuant to section 108 of EESA (74 FR 3431). Comments on the interim final rule, which were due by March 23, 2009, will be considered as part of the process of issuing a final rule.

The Department will continue implementing the EESA authorities to restore capital flows to the consumers and businesses that form the core of the Nation's economy.

Terrorism Risk Insurance Program Office

The Terrorism Risk Insurance Act of 2002 (TRIA) was signed into law on November 26, 2002. The law, which was enacted as a consequence of the events of September 11, 2001, established a temporary Federal reinsurance program under which the Federal Government shares the risk of losses associated with certain types of terrorist acts with commercial property and casualty insurers. The Act, originally scheduled to expire on December 31, 2005, was extended to December 31, 2007, by the Terrorism Risk Insurance Extension Act of 2005 (TRIEA). The Act has since been extended to December 31, 2014, by the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA).

The Office of the Assistant Secretary for Financial Institutions is responsible for developing and promulgating regulations implementing TRIA, as extended and amended by TRIEA and TRIPRA. The Terrorism Risk Insurance Program Office, which is part of the Office of the Assistant Secretary for Financial Institutions, is responsible for operational implementation of TRIA. The purposes of this legislation are to address market disruptions, ensure the continued widespread availability and affordability of commercial property and casualty insurance for terrorism risk, and to allow for a transition period for the private markets to stabilize and build capacity while preserving State insurance regulation and consumer protections.

Over the past year, the Office of the Assistant Secretary has issued proposed rules implementing changes authorized by TRIA as revised by TRIPRA. The following regulations should be published by December 31, 2010:

Final Netting. This rule would establish procedures by which, after the Secretary has determined that claims for the Federal share of insured losses arising from a particular Program Year shall be considered final, a final netting of payments to or from insurers will be accomplished.

Affiliates. This rule would make changes to the definition of ''affiliate'' to conform to the language in the statute

Civil Penalty. This rule establishes procedures by which the Secretary may assess civil penalties against any insurer that the Secretary determines, on the record after an opportunity for a hearing has violated provisions of the Act.

Renewals. Certain claims rules will be published for renewal without change.

During 2011, Treasury will continue the ongoing work of implementing TRIA and carrying out revised operations as a result of the TRIPRA related regulation changes.

Customs Revenue Functions

On November 25, 2002, the President signed the Homeland Security Act of 2002 (the Act), establishing the Department of Homeland Security (DHS). The Act transferred the United States Customs Service from the Department of the Treasury to the DHS, where it is was known as the Bureau of Customs and Border Protection (CBP). Effective March 31, 2007, DHS changed the name of the Bureau of Customs and Border Protection to U.S. Customs and Border Protection (CBP) pursuant to section 872(a)(2) of the Act (6 U.S.C. 452(a)(2)) in a **Federal Register** notice (72 FR 20131) published on April 23, 2007. Notwithstanding the transfer of the Customs Service to DHS, the Act provides that the Secretary of the Treasury retains sole legal authority over the customs revenue functions. The Act also authorizes the Secretary of the Treasury to delegate any of the retained authority over customs revenue functions to the Secretary of Homeland Security. By Treasury Department Order No. 100-16, the Secretary of the Treasury delegated to the Secretary of Homeland Security authority to prescribe regulations pertaining to the customs revenue functions subject to certain exceptions. This order further provided that the Secretary of the Treasury retained the sole authority to approve any such regulations concerning import quotas or trade bans, user fees, marking, labeling, copyright and trademark enforcement, and the completion of entry or substance of entry summary including duty assessment and collection, classification, valuation, application of the U.S. Harmonized Schedules, eligibility or requirements for preferential trade programs and the establishment of recordkeeping requirements relating thereto.

During the past fiscal year, among the Treasury-retained CBP customs-revenue function regulations issued was a final rule that adopted the interim amendments updating the regulatory provisions relating to the requirement under the United States-Bahrain FTA (BFTA) that a good must be ''imported directly'' from Bahrain to the United States or from the United States to Bahrain to qualify for preferential tariff treatment. The change removed the condition that a good passing through the territory of an intermediate country must remain under the control of the customs authority of the intermediate country. CBP also finalized the interim regulations, which implemented the preferential tariff treatment provisions of the Dominican Republic-Central America-United States Free Trade Agreement (also known as ''CAFTA-DR'') Implementation Act.

In addition, during the past fiscal year, CBP finalized the interim amendments of the regulations to implement certain provisions of the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (Pub. L. 110-286) (the ''JADE Act'') and Presidential Proclamation 8294 of September 26, 2008, which includes new Additional U.S. Note 4 to chapter 71 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The final amendments prohibit the importation of Burmese-covered articles of jadeite, rubies, and articles of jewelry containing jadeite or rubies, and sets forth restrictions for the importation of non-Burmese covered articles of jadeite, rubies, and articles of jewelry containing jadeite or rubies.

As a result of the Softwood Lumber Act of 2008, CBP finalized the interim regulations to parts 12 and 163 of the regulations that prescribed special entry requirements as well as an importer declaration program applicable to certain softwood lumber (SWL) and SWL products exported from any country into the United States. The regulations also implemented the Act's recordkeeping requirements applicable to certain imports of SWL home packages and kits that are subject to declaration requirements but that are not subject to the SWL importer declaration program.

This past fiscal year, consistent with the practice of continuing to move forward with Customs Modernization provisions of the North American Free Trade Implementation Act to improve its regulatory procedures, Treasury and CBP finalized its proposal to establish the remote location filing program, which had been a test program under the Customs Modernization Act for many years. This rule permits remote location filing of electronic entries of merchandise from a location other than where the merchandise arrives. In addition, Treasury and CBP also finalized a proposal which was published in August 2008 regarding the electronic payment and refund of quarterly harbor maintenance fees. The rule provides the trade with expanded electronic payment/refund options for quarterly harbor maintenance fees and it modernizes and enhances CBP's port use fee collection efforts.

During fiscal year 2011, CBP and Treasury plan to give priority to the following regulatory matters involving the customs revenue functions not delegated to DHS:

Trade Act of 2002's preferential trade benefit provisions. Treasury and CBP plan to finalize several interim regulations that implement the trade benefit provisions of the Trade Act of 2002 including the Caribbean Basin Economic Recovery Act and the African Growth and Opportunity Act.

Free Trade Agreements. Treasury and CBP also plan to finalize interim regulations this fiscal year to implement the preferential tariff treatment provisions of the United States-Singapore Free Trade Agreement Implementation Act. Treasury and CBP also expect to issue interim regulations implementing the United States-Australia Free Trade Agreement Implementation Act, the United States-Oman Free Trade Agreement Implementation Act, and the United States-Peru Free Trade Agreement Implementation Act.

Country of Origin of Textile and Apparel Products. Treasury and CBP also plan to publish a final rule adopting an interim rule that was published on the Country of Origin of Textile and Apparel Products, which implemented the changes brought about, in part, by the expiration of the Agreement on Textile and Clothing and

the resulting elimination of quotas on the entry of textile and apparel products from World Trade Organizations (WTO) members.

North American Free Trade Agreement Country of Origin Rules. Based upon the public comments received on its July 25, 2008, proposal regarding establishing uniform rules governing CBP's determinations of the country of origin of imported merchandise, Treasury and CBP has decided not to proceed with this proposal. Instead, Treasury and CBP plan to withdraw the proposal to establish uniform rules of origin to all trade and to adopt as final regulations certain proposed amendments to the country of origin rules codified in part 102 of the CBP regulations applicable to pipe fittings and flanges, greeting cards, glass optical fiber, rice preparations, and certain textile products.

Customs and Border Protection's Bond Program. Treasury and CBP plan to finalize its proposal to amend the regulations to reflect the centralization of the continuous bond program at CBP's Revenue Division. The changes proposed support CBP's bond program by ensuring an efficient and uniform approach to the approval, maintenance, and periodic review of continuous bonds as well as accommodating the use of information technology and modern business practices.

Courtesy Notices of Liquidation. Treasury and CBP plan to finalize its proposal to amend the regulations pertaining to the method by which CBP issues courtesy notices of liquidation in an effort to streamline the notification process and reduce printing and mailing costs.

Community Development Financial Institutions Fund

The Community Development Financial Institutions Fund (Fund) was established by the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*). The primary purpose of the CDFI Fund is to promote economic revitalization and community development through the following programs: The Community Development Financial Institutions (CDFI) Program, the Bank Enterprise Award (BEA) Program, the Native American CDFI Assistance (NACA) Program, and the New Markets Tax Credit (NMTC) Program. In addition the CDFI Fund administers the Financial Education and Counseling Pilot Program (FEC) and the Capital Magnet Fund (CMF).

In fiscal year (FY) 2011, subject to funding availability, the Fund will provide awards through the following programs:

Native American CDFI Assistance (NACA) Program. Through the NACA Program, the CDFI Fund will provide technical assistance grants and financial assistance awards to promote the development of CDFIs that serve Native American, Alaska Native, and Native Hawaiian communities.

Bank Enterprise Award (BEA) Program. Through the BEA Program, the CDFI Fund will provide financial incentives to encourage insured depository institutions to engage in eligible development activities and to make equity investments in CDFIs.

New Markets Tax Credit (NMTC) Program. Through the NMTC Program, the CDFI Fund will provide allocations of tax credits to qualified community development entities (CDEs). The CDEs in turn provide tax credits to private sector investors in exchange for their investment dollars; investment proceeds received by the CDEs are to be used to make loans and equity investments in low-income communities. The CDFI Fund administers the NMTC Program in coordination with the Office of Tax Policy and the Internal Revenue Service.

Financial Education and Counseling (FEC) Pilot Program. Through the FEC Pilot Program, the CDFI Fund will provide grants to eligible organizations to provide a range of financial education and counseling services to prospective homebuyers. The CDFI Fund will administer the FEC Program in coordination with the Office of Financial Education.

Capital Magnet Fund (CMF). Through the Capital Magnet Fund, the CDFI Fund will provide competitively awarded grants to CDFIs and qualified nonprofit housing organizations to finance affordable housing and related community development projects. In FY 2010, the Fund expects to draft and publish regulations to govern the application process, award selection, and compliance components of the CMF.

Bond Guarantee (Small Business Jobs and Credit Act of 2010, Pub. L. No. 111-240, Section 1134). Pursuant to section 1134 of Public Law No. 111-240, the Treasury Department is required to promulgate regulations implementing the bond guarantee provisions by September 2011. The program must then be implemented no later than September 2012 and sunsets on September 30, 2014.

Financial Crimes Enforcement Network

As chief administrator of the Bank Secrecy Act (BSA), the Financial Crimes Enforcement Network (FinCEN) is responsible for developing and implementing regulations that are the core of the Department's anti-money laundering and counter-terrorism financing programmatic efforts. FinCEN's responsibilities and objectives are linked to, and flow from, that role. In fulfilling this role, FinCEN seeks to enhance U.S. national security by making the financial system increasingly resistant to abuse by money launderers, terrorists and their financial supporters, and other perpetrators of crime.

The Secretary of the Treasury, through FinCEN, is authorized by the BSA to issue regulations requiring financial institutions to file reports and keep records that are determined to have a high degree of usefulness in criminal, tax, or regulatory matters or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism. Those regulations also require designated financial institutions to establish anti-money laundering programs and compliance procedures. To implement and realize its mission, FinCEN has established regulatory objectives and priorities to safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and other illicit activity. These objectives and priorities include: (1) Issuing, interpreting, and enforcing compliance with regulations implementing the BSA; (2) supporting, working with, and, as appropriate, overseeing compliance examination functions delegated to other Federal regulators; (3) managing the collection, processing, storage, and dissemination of data related to the BSA; (4) maintaining a Governmentwide access service to that same data, and for network users with overlapping interests; (5) conducting analysis in support of policymakers, law enforcement, regulatory and intelligence agencies, and the financial sector; and (6) coordinating with and collaborating on anti-terrorism and anti-money laundering initiatives with domestic law enforcement and intelligence agencies, as well as foreign financial intelligence units.

During fiscal year 2010, FinCEN issued the following regulatory actions:

Administrative Rulings. On November 17, 2009, FinCEN issued a final technical rule change to update the BSA provisions to reflect that Administrative

Rulings are published on the FinCEN Web site, rather than in the Federal Register, allowing information to be distributed more broadly and more expediently.

Prepaid Access—Regulatory Framework for Activity Previously Referred to as Stored Value. On June 28, 2010, FinCEN issued a Notice of Proposed Rulemaking (NPRM) that would establish a more comprehensive regulatory framework for non-bank prepaid access. The proposed rule, which focuses on prepaid programs that pose the greatest potential risks of money laundering and terrorist financing, was developed in close cooperation with law enforcement and regulatory authorities.

The proposed changes impose obligations on the party within any given prepaid access transaction chain with predominant oversight and control, as well as others who might be in a position to provide meaningful information to regulators and law enforcement, such as prepaid access sellers. Although mandated by the Credit Card Accountability, Responsibility, and Disclosure Act (CARD Act) of 2009 (section 503) to issue a final rule ''regarding issuance, sale, redemption, or international transport of stored value,'' rulemaking activities were already underway. Just prior to the enactment of the CARD Act, FinCEN issued an NPRM clarifying the applicability of BSA regulations with respect to MSB activities. As part of this NPRM, FinCEN solicited comments on various prepaid/stored value issues to assist with future rulemakings.

Confidentiality of Suspicious Activity Reports. On March 3, 2009, FinCEN issued a Notice of Proposed Rulemaking clarifying the non-disclosure provisions with respect to the existing regulations pertaining to the confidentiality of suspicious activity reports (SARs). In conjunction with this notice, FinCEN issued for comment two guidance documents, SAR Sharing with Affiliates for depository institutions and SAR Sharing with Affiliates for securities and futures industry entities, to solicit comment permitting certain financial institutions to share SARs with their U.S. affiliates that are also subject to SAR reporting requirements. FinCEN expects to publish the final rule before the end of 2010.

Mutual Funds. On April 14, 2010, FinCEN issued a Final Rule to include mutual funds within the general definition of ''financial institutions'' in BSA regulations, subjecting mutual funds to rules on the filing of Currency Transaction Reports (CTRs) for cash transactions over $10,000 in lieu of current obligations to file Form 8300s, and on the creation, retention, and transmittal of records or information for transmittals of funds. In addition, the final rule harmonized the definition of mutual fund in the AML program rule with the definitions found in the other BSA rules to which mutual funds are subject.

Non-Bank Residential Mortgage Lenders and Originators. On July 21, 2009, FinCEN issued an Advance Notice of Proposed Rulemaking to solicit public comment on a wide range of questions pertaining to the possible application of anti-money laundering (AML) program and suspicious activity report (SAR) regulations to a specific sub-set of loan and finance companies, i.e., non-bank residential mortgage lenders and originators FinCEN is working on a Notice of Proposed Rulemaking that would require nonbank residential mortgage lenders and originators to implement AML program and SAR filing requirements, which is expected to be published prior to the end of 2010.

Expansion of Special Information Sharing Procedures (pursuant to section 314(a) of the BSA). On February 10, 2010, FinCEN issued a Final Rule to amend the BSA regulations to allow certain foreign law enforcement agencies, State and local law enforcement agencies, as well as FinCEN and other appropriate components of the Department of the Treasury to submit requests for information to financial institutions.

FBAR Requirements. On February 26, 2010, working with Treasury Tax Policy and the IRS, FinCEN issued an NPRM with regard to revising the regulations governing the filing of Reports of Foreign Bank and Financial Accounts (FBARs). Among other things, FinCEN and the IRS will seek comments regarding when a person with signature authority over, but no financial interest in, a foreign financial account should be relieved of filing an FBAR for the account, and when an interest in a foreign entity (e.g., a corporation, partnership, trust or estate) should be subject to FBAR reporting. The final rule is expected to be published in FY 2011.

Cross Border Electronic Transmittal of Funds. FinCEN drafted a Notice of Proposed Rulemaking (NPRM) in conjunction with the feasibility study prepared pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004 concerning the issue of obtaining information about certain cross-border funds transfers and transmittals of funds. The NPRM proposes requirements for certain banks and money transmitters to submit reports of transmittal orders associated with certain cross border electronic transmittals of funds. In addition, the proposal would require an annual filing with FinCEN by all banks of a list of taxpayer identification numbers of accountholders who transmitted or received a cross border electronic transmittal of funds that is subject to reporting. FinCEN published the NPRM on September 30, 2010.

Renewal of Existing Rules. FinCEN renewed without change a number of information collections associated with existing requirements: The Currency Transaction Report requiring financial institutions to report cash transactions over $10,000 (FinCEN Form 104), regulations requiring businesses to report cash payments over $10,000 received in a trade or business (FinCEN Form 8300), two USA PATRIOT Act regulations imposing special measures against the Commercial Bank of Syria including its subsidiary, Syrian Lebanese Commercial Bank, a USA Patriot Act regulation imposing special measures against Banco Delta Asia, and regulations requiring certain financial institutions to establish special due diligence programs for correspondent accounts for foreign financial institutions.

Special Due Diligence Programs for Certain Foreign Accounts. As a result of a congressional mandate to prescribe regulations under the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, FinCEN is revising the BSA regulations to incorporate an additional relevant factor for a covered financial institution to consider when assessing the money laundering risks presented by correspondent accounts for foreign financial institutions. FinCEN expects to issue a final rule change to 103.176 before the end of 2010.

Administrative Rulings and Written Guidance. FinCEN issued 37 Administrative Rulings, written responses to interpretive questions, and written guidance pieces interpreting the BSA and providing clarity to regulated industries.

FinCEN's regulatory priorities for fiscal year 2011 include finalizing any initiatives mentioned above that are not finalized by fiscal year end, as well as the following projects:

Reorganization of BSA Rules. On October 23, 2008, FinCEN issued a Notice of Proposed Rulemaking to re-

designate and reorganize the BSA regulations in a new chapter within the Code of Federal Regulations. The re-designation and reorganization of the regulations in a new chapter is not intended to alter regulatory requirements. The regulations will be organized in a more consistent and intuitive structure that more easily allows financial institutions to identify their specific regulatory requirements under the BSA. The new chapter will replace 31 CFR part 103.

Money Services Businesses-Definitions and Other Regulations. On May 12, 2009, FinCEN issued a Notice of Proposed Rulemaking revising the definitions for Money Services Businesses (MSBs) to delineate more clearly the scope of entities regulated as MSBs, incorporating previously issued Administrative Rules and guidance with regard to MSBs, and ensuring that certain foreign-located persons engaging in MSB activities within the United States are subject to BSA rules. FinCEN expects to issue a Final Rule in fiscal year 2011.

Anti-Money Laundering Programs. Pursuant to section 352 of the USA PATRIOT Act, certain financial institutions are required to establish AML programs. Continued from prior fiscal years, FinCEN is researching and developing rulemaking to require State-chartered credit unions and other depository institutions without a Federal functional regulator to implement AML programs. FinCEN also is researching and developing AML program (and SAR reporting) requirements for investment advisers. Finally, FinCEN also will continue to consider regulatory options regarding additional loan and finance companies, and certain corporate and trust service providers.

Other Requirements. FinCEN also will continue to issue proposed and final rules pursuant to section 311 of the USA PATRIOT Act, as appropriate. Finally, FinCEN expects to propose various technical and other regulatory amendments in conjunction with its ongoing, comprehensive review of existing regulations to enhance regulatory efficiency.

Internal Revenue Service

The Internal Revenue Service (IRS), working with the Office of the Assistant Secretary (Tax Policy), promulgates regulations that interpret and implement the Internal Revenue Code and related tax statutes. The purpose of these regulations is to carry out the tax policy determined by Congress in a fair, impartial, and reasonable manner, taking into account the intent of Congress, the realities of relevant transactions, the need for the Government to administer the rules and monitor compliance, and the overall integrity of the Federal tax system. The goal is to make the regulations practical and as clear and simple as possible.

Most IRS regulations interpret tax statutes to resolve ambiguities or fill gaps in the tax statutes. This includes interpreting particular words, applying rules to broad classes of circumstances, and resolving apparent and potential conflicts between various statutory provisions.

During fiscal year 2011, the IRS will accord priority to the following regulatory projects:

Deduction and Capitalization of Costs for Tangible Assets. Section 162 of the Internal Revenue Code allows a current deduction for ordinary and necessary expenses paid or incurred in carrying on any trade or business. Under section 263(a) of the Code, no immediate deduction is allowed for amounts paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate. Those expenditures are capital expenditures that generally may be recovered only in future taxable years, as the property is used in the taxpayer's trade or business. It often is not clear whether an amount paid to acquire, produce, or improve property is a deductible expense or a capital expenditure. Although existing regulations provide that a deductible repair expense is an expenditure that does not materially add to the value of the property or appreciably prolong its life, the IRS and Treasury believe that additional clarification is needed to reduce uncertainty and controversy in this area. In August 2006, the IRS and Treasury issued proposed regulations in this area and received numerous comments. In March 2008, the IRS and Treasury withdrew the 2006 proposed regulations and issued new proposed regulations, which have generated relatively few comments. The IRS and Treasury intend to finalize those regulations.

Arbitrage Investment Restrictions on Tax-Exempt Bonds. The arbitrage investment restrictions on tax-exempt bonds under section 148 generally limit issuers from investing bond proceeds in higher-yielding investments. Treasury and the IRS plan to issue proposed regulations to address selected current issues involving the arbitrage restrictions, including guidance on the issue price definition used in the computation of bond yield, working capital financings, grants, investment valuation, modifications and terminations of qualified hedging transactions, and selected other issues.

Tax Credit Bonds. Tax credit bonds are bonds in which the holder receives a Federal tax credit in lieu of some or all of the interest on the bond. The American Recovery and Reinvestment Act of 2009 created a number of new types of tax credit bonds and modified the law as it concerned several existing types of tax credit bonds. The Hiring Incentives to Restore Employment Act added subsection (f) to section 6431 which authorizes issuers to receive Federal direct payments of allowances of refundable tax credits in lieu of the Federal tax credits that otherwise would be allowed to holders of certain tax credit bonds. The IRS and Treasury intend to provide guidance on selected legal issues concerning tax credit bonds and remedial actions involving refundable tax credit bonds.

Build America Bonds. Treasury and the IRS plan to issue proposed regulations to provide guidance on interpretative issues that have arisen in implementing the broad new Build America Bond program in section 54AA, which was created by the American Recovery and Reinvestment Act of 2009.

Guidance on the Tax Treatment of Distressed Debt. A number of tax issues relating to the amount, character, and timing of income, expense, gain, or loss on distressed debt remain unresolved. In addition, the tax treatment of distressed debt, including distressed debt that has been modified, may affect the qualification of certain entities for tax purposes or result in additional taxes on the investors in such entities, such as regulated investment companies, real estate investment trusts, and real estate mortgage investment conduits (REMICs). During fiscal year 2010, Treasury and the IRS have addressed some of these issues through published guidance, including (1) two revenue procedures providing relief for certain modifications of distressed commercial mortgage loans held by a REMIC, (2) a notice providing that interest deductions for certain refinanced corporate indebtedness issued in 2010 would not be deferred or disallowed under section 163(e)(5), and (3) proposed regulations clarifying that the deterioration in the financial condition of the issuer of a modified debt instrument is not taken into account to determine whether the instrument is debt or equity. Treasury

and the IRS plan to address more of these issues in published guidance.

Elective Deferral of Certain Business Discharge of Indebtedness Income. In the recent economic downturn, many business taxpayers realized income as a result of modifying the terms of their outstanding indebtedness or refinancing on terms subjecting them to less risk of default. The American Recovery and Reinvestment Act of 2009 includes a special relief provision allowing for the elective deferral of certain discharge of indebtedness income realized in 2009 and 2010. The provision, section 108(i) of the Code, is complicated and many of the details will have to be supplied through regulatory guidance. On August 9, 2009, Treasury and the IRS issued Revenue Procedure 2009-37 that prescribes the procedure for making the election. Treasury and the IRS recently promulgated temporary and proposed regulations (TD 9497 and TD 9498), which were published in the Federal Register on August 13, 2010. These regulations provide additional guidance on such issues as the types of indebtedness eligible for the relief, acceleration of deferred amounts, the operation of the provision in the context of flow-through entities, the treatment of the discharge for the purpose of computing earnings and profits, and the operation of a provision of the statute deferring original issue discount deductions with respect to related refinancings. Treasury and the IRS intend to issue final regulations.

Regulation of Tax Return Preparers. In June 2009, the IRS launched a comprehensive review of the tax return preparer program with the intent to propose a set of recommendations to ensure uniform and high ethical standards of conduct for all tax return preparers and to increase taxpayer compliance. The IRS published findings and recommendations in Publication 4832, *Return Preparer Review*. In the report, the IRS recommended increased oversight of the tax return preparer industry, including but not limited to, mandatory preparer tax identification number (PTIN) registration and usage, competency testing, continuing education requirements, and ethical standards for all tax return preparers. As part of a multi-step effort to increase oversight of Federal tax return preparers, Treasury and the IRS published regulations authorizing the IRS to require tax return preparers who prepare all or substantially all of a tax return for compensation after December 31, 2010, to use PTINs as the preparer's identifying number on all tax returns and refund claims that they prepare. On September 30, 2010, Treasury and the IRS published regulations that set the user fee for obtaining a PTIN at $50 plus a third-party vendor's fee. On August 23, 2010, Treasury and IRS published proposed amendments to Circular 230, which will establish registered tax return preparers as a new category of tax practitioner and will extend the ethical rules for tax practitioners to any individual who is a tax return preparer. Treasury and the IRS intend to finalize these regulations in 2010 or 2011 and publish additional guidance as necessary to implement the recommendations in the report.

Requirement for Certain Taxpayers to File Forms Disclosing Uncertain Tax Positions. Section 6011 of the Internal Revenue Code provides that persons liable for a tax imposed by title 26 must make a return when required by regulations prescribed by the Secretary of the Treasury according to the forms and regulations prescribed by the Secretary. Treasury Regulation section 1.6011-1 requires every person liable for income tax to make such returns as are required by regulation. Section 6012 requires corporations subject to an income tax to make a return with respect to that tax. Treasury Regulation section 1.6012-2 sets out the corporations that are required to file returns and the form those returns must take. Treasury and the IRS issued proposed regulations on September 9, 2010, that would require corporations to file a Schedule UTP consistent with the forms, instructions, and other appropriate guidance provided by the IRS. The IRS intends to implement the authority provided in this regulation initially by issuing a schedule and explanatory publication that require those corporations that prepare audited financial statements to file a schedule identifying and describing the uncertain tax positions, as described in FIN 48 and other generally accepted accounting standards, that relate to the tax liability reported on the return.

Basis Reporting. Section 403 of the Energy Improvement and Extension Act of 2008 (Pub. L. No. 110-343), enacted on October 3, 2008, added sections 6045(g), 6045A, and 6045B to the Internal Revenue Code. Section 6045(g) provides that every broker required to file a return with the Service under section 6045(a) showing the gross proceeds from the sale of a covered security must include in the return the customer's adjusted basis in the security and whether any gain or loss with respect to the security is long-term or short-term. Section 6045A further provides that, beginning in 2011, a broker and any other specified person (transferor) that transfers custody of a covered security to a receiving broker must furnish to the receiving broker a written statement that allows the receiving broker to satisfy the basis reporting requirements of section 6045(g). The transferor must furnish the statement to the receiving broker within 15 days after the date of the transfer or at a later time provided by the Secretary. Proposed regulations implementing these provisions and a notice of public hearing were published on December 17, 2009, and a hearing was held on February 17, 2010. Final regulations and a Notice providing transitional relief from the transfer reporting requirements for calendar year 2011 were issued in October 2010.

Withholding on Government Payments for Property and Services. Section 3402(t) was added to the Internal Revenue Code by the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA). Section 3402(t) requires all Federal, State, and local Government entities (except for certain small State entities) to deduct and withhold an income tax equal to 3 percent from all payments (with certain enumerated exceptions) the Government entity makes for property or services. Section 3402(t) will be effective for payments made after December 31, 2011. On March 11, 2008, the IRS issued Notice 2008-38 soliciting public comments regarding guidance to be provided to Federal, State, and local governments required to withhold under section 3402(t). After considering the many comments, the IRS and Treasury issued a Notice of Proposed Rulemaking, which was published in the Federal Register on December 4, 2008. A hearing on the proposed regulations was held on April 16, 2009, and the IRS has received 168 comments from stakeholders on the proposed regulations. The IRS and Treasury are considering the comments and intend to issue final regulations.

Information Reporting for Foreign Accounts of U.S. Persons. In March 2010, chapter 4 (sections 1471 to 1474) was added to subtitle A of the Internal Revenue Code as part of the Hiring Incentives to Restore Employment Act (HIRE Act) (Pub. L. 111-147). Chapter 4 was enacted to address concerns with offshore tax evasion, and generally requires foreign financial institutions (FFIs) to enter into an agreement (FFI Agreement) with the IRS to report information regarding certain financial accounts of U.S. persons and foreign

entities with significant U.S. ownership. An FFI that does not enter into an FFI Agreement generally will be subject to a withholding tax on the gross amount of certain payments from U.S. sources, as well as the proceeds from disposing of certain U.S. investments. Treasury and the IRS published Notice 2010-60, which provides preliminary guidance and requests comments on the most important and time-sensitive issues under chapter 4. Treasury and the IRS expect to follow up this notice with proposed regulations, a proposed model FFI Agreement, and other guidance before the general effective date of chapter 4, which applies to payments made on or after January 1, 2013. This guidance will address numerous issues, notably the definition of FFI, the due diligence required of withholding agents and FFIs in identifying U.S. accountholders, and the requirements for reporting U.S. accounts.

Withholding on Certain Dividend Equivalent Payments under Notional Principal Contracts. The HIRE act also added section 871(l) to the Code (now section 871(m)), which designates certain substitute dividend payments in security lending and sale-repurchase transactions and dividend-referenced payments made under certain notional principal contracts as U.S.-source dividends for purposes of the Federal withholding tax obligations of withholding agents and foreign persons (dividend equivalents). In response to this legislation, on May 20, 2010, the IRS issued Notice 2010-46, addressing the requirements for determining the proper withholding in connection with substitute dividends paid in foreign-to-foreign security lending and sale-repurchase transactions. The IRS and Treasury intend to issue regulations to implement the provisions of this Notice as well as regulations addressing cases where dividend equivalents should be found to arise in connection with notional principal contracts and other financial derivatives.

Foreign Financial Asset Reporting (section 6038D). Section 6038D was enacted by section 511 of the HIRE Act, effective for taxable years beginning after March 18, 2010. Section 6038D requires an individual taxpayer to include a disclosure statement with the individual's income tax return and to report certain information required by section 6038D(c) if the aggregate value of the taxpayer's interests in specified foreign financial assets exceeds $50,000 for the taxable year, or such higher dollar amount as the Secretary may prescribe. In addition, if a domestic entity is formed or availed of for the purpose of holding, directly or indirectly, specified foreign financial assets, then the Secretary may require the domestic entity to comply with section 6038D and report its specified foreign financial assets in the same manner as if the domestic entity were an individual. Treasury and the IRS intend to issue regulations, as well as a form and instructions, to implement section 6038D.

New International Tax Provisions of the Education, Jobs and Medicaid Assistance Act. On August 10, 2010, the Education, Jobs, and Medicaid Assistance Act of 2010 (Pub L. 111-226) was signed into law. The new law includes a significant package of international tax provisions. These provisions include limitations on the availability of foreign tax credits in certain cases where U.S. tax law and foreign tax law provide different rules for recognizing income and gain, and in cases where income items treated as foreign source under certain tax treaties would otherwise be sourced in the United States. The legislation also limits the ability of multinationals to reduce their U.S. tax burdens by using a provision intended to prevent corporations from avoiding U.S. income tax on repatriated corporate earnings. Other new provisions under this legislation limit the ability of multinational corporations to use acquisitions of related party stock to avoid U.S. tax on what would otherwise be taxable distributions of dividends. The statute also includes a new provision intended to tighten the rules under which interest expense is allocated between U.S.- and foreign-source income within multinational groups of related corporations when a foreign corporation has significant amounts of U.S.-source income that is effectively connected with a U.S. business. Treasury and the IRS expect to issue regulatory guidance on most of these provisions.

Guidance on Tax-Related Health Care Provisions. On March 23, 2010, the President signed the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148) and on March 30, 2010, the President signed the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152) (referred to collectively as the Affordable Care Act (ACA)). The ACA's comprehensive reform of the health insurance system affects individuals, families, employers, health care providers, and health insurance providers. The ACA provides authority for Treasury and the IRS to issue regulations and other guidance to implement tax provisions in the ACA, some of which are effective immediately and some of which will become effective over the next several years. In the past few months, Treasury and the IRS, together with the Department of Health and Human Services and the Department of Labor, have issued a series of temporary and proposed regulations implementing various provisions of the ACA related to individual and group market reforms. In addition, Treasury and the IRS have issued guidance on specific ACA provisions relating to the tax treatment of health care benefits provided to children under age 27 (sec. 105 of the Code), the credit for small employers that provide health insurance coverage (sec. 45R), the credit for qualifying therapeutic discovery projects (sec. 48D), additional requirements for tax-exempt hospitals (sec. 501(r)), the tax on indoor tanning services (sec. 5000B), and information reporting for payments to corporations (sec. 6041). Providing additional guidance to implement tax provisions of the ACA is a priority for Treasury and the IRS.

Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency (OCC) was created by Congress to charter national banks, to oversee a nationwide system of banking institutions, and to assure that national banks are safe and sound, competitive and profitable, and capable of serving in the best possible manner the banking needs of their customers.

The OCC seeks to assure a banking system in which national banks soundly manage their risks, maintain the ability to compete effectively with other providers of financial services, meet the needs of their communities for credit and financial services, comply with laws and regulations, and provide fair access to financial services and fair treatment of their customers.

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, 124 Stat. 1376, July 21, 2010) imposes a significant number of rulemaking requirements that must be completed during fiscal year 2011. Most of them are to be issued jointly with other agencies. The exact details and timing of the rulemakings have not yet been determined and, therefore, they are not included here or in our regulatory agenda. When more information is known, we will promptly add them to our regulatory agenda and report them in our fiscal year 2012 regulatory plan.

Significant rules issued during fiscal year 2010 include:

- *Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance; Capital — Residential Mortgage Loans Modified Pursuant to the Making Home Affordable Program (12 CFR part 3).* In order to support and facilitate the timely implementation of the Making Home Affordable Plan (MHAP) announced by the U.S. Department of Treasury and to promote the stability of banking organizations and the financial system, the banking agencies issued a final rule providing that a residential mortgage loan (whether a first-lien or a second-lien loan) modified under the MHAP will retain the risk weight assigned to the loan prior to the modification, so long as the loan continues to meet other relevant supervisory criteria. The rule minimizes disincentives to bank participation in the MHAP that could otherwise result from agencies' regulatory capital regulations. The banking agencies believe that this treatment is appropriate in light of the overall important public policy objectives of promoting sustainable loan modifications for at-risk homeowners that balance the interests of borrowers, servicers, and investors. Joint agency action was essential to ensure that the regulatory capital consequences of participation in the MHAP are the same for all commercial banks and thrifts. A final rule was issued on November 20, 2009. (74 FR 60137)
- *Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Regulatory Capital; Impact of Modifications to Generally Accepted Accounting Principles; Consolidation of Asset-Backed Commercial Paper Programs; and Other Related Issues (12 CFR part 3).* The Federal banking agencies amended their general risk-based and advanced risk-based capital adequacy frameworks by adopting a final rule that eliminates the exclusion of certain consolidated asset-backed commercial paper programs from risk-weighted assets; provides for an optional two-quarter implementation delay followed by an optional two-quarter partial implementation of the effect on risk-weighted assets that will result from changes to U.S. generally accepted accounting principles pertaining to the transfer and consolidation assets; provides for an optional two-quarter delay, followed by an optional two-quarter phase-in, of the application of the agencies' regulatory limit on the inclusion of the allowance for loan and lease losses (ALLL) in tier 2 capital for the portion of the ALLL associated with the assets a banking organization consolidates as a result of changes to U.S. generally accepted accounting principles; and provides a reservation of authority to permit the agencies to require a banking organization to treat entities that are not consolidated under accounting standards as if they were consolidated for risk-based capital purposes, commensurate with the risk relationship of the banking organization to the structure. The delay and subsequent phase-in periods of the implementation apply only to the agencies' risk-based capital requirements, not the leverage ratio requirement. This final rule was issued on January 28, 2010 (75 FR 4636).
- *Registration of Mortgage Loan Originators (12 CFR part 34).* The banking agencies, the NCUA, and Farm Credit Administration (FCA) issued final rules to implement the S.A.F.E. Mortgage Licensing Act of 2008, title V of the Housing and Economic Recovery Act of 2008, Public Law 110-289. These amendments require an employee of a depository institution, an employee of a depository institution subsidiary regulated by a Federal banking agency, or an employee of an institution regulated by the FCA who engages in the business of a mortgage loan originator to register with the Nationwide Mortgage Licensing System and Registry (NMLSR) and to obtain a unique identifier. These amendments also provide that these institutions must require their employees who act as mortgage loan originators to comply with this Act's registration and unique identifier requirements and must adopt and follow written policies and procedures to assure compliance with these requirements. The final rules were issued on July 28, 2010 (75 FR 44656). The OCC has included this rulemaking project in The Regulatory Plan (1557-AD23).
- *Community Reinvestment Act Regulations (12 CFR part 25).* The banking agencies issued proposed regulations to revise provisions of their rules implementing the Community Reinvestment Act. The agencies proposed revising the term ''community development'' to include loans, investments, and services by financial institutions that support, enable or facilitate projects or activities that meet the criteria described in section 2301(c)(3) of the Housing and Economic Recovery Act of 2008 (HERA) and are conducted in designated target areas identified in plans approved by the U.S. Department of Housing and Urban Development under the Neighborhood Stabilization Program (NSP), established by HERA. This notice of proposed rulemaking was published on June 24, 2010 (75 FR 36016).
- *Community Reinvestment Act Regulations (12 CFR part 25).* On August 14, 2008, the Higher Education Opportunity Act (HEOA) was enacted into law (Pub. L. 110-315, 122 Stat. 3078). Section 1031 of the HEOA revised the Community Reinvestment Act (CRA) to require the banking agencies, when evaluating a bank's record of meeting community credit needs, to consider, as a factor, low-cost education loans provided by the bank to low-income borrowers. The banking agencies issued a final rule that would implement section 1031 of the HEOA. In addition, the rule would incorporate into the banking agencies' rules statutory language that allows them to consider as a factor when evaluating a bank's record of meeting community credit needs capital investment, loan participation, and other ventures undertaken by nonminority- and nonwomen-owned financial institutions in cooperation with minority- and women-owned financial institutions and low-income credit unions. The joint final rule was published on October 4, 2010 (75 FR 61046)
- *Alternatives to the Use of External Credit Ratings in the Regulations of the OCC (12 CFR parts 1, 16, and 28).* Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act directs all Federal agencies to review, no later than one year after enactment, any regulation that requires the use of an assessment of credit-worthiness of a security or money market instrument and any references to or requirements in regulations regarding credit ratings. The agencies are also required to remove references or requirements of reliance on credit ratings and to substitute an alternative standard of credit-worthiness. Through an advanced notice of proposed rulemaking (ANPRM), the OCC is seeking to gather information as it begins to review its regulations pursuant to the Dodd-Frank Act. This

ANPRM describes the areas where the OCC's regulations, other than those that establish regulatory capital requirements, currently rely on credit ratings; sets forth the considerations underlying such reliance; and requests comment on potential alternatives to the use of credit ratings. The ANPRM was published on August 13, 2010 (75 FR 49423).

- *Advance Notice of Proposed Rulemaking Regarding Alternatives to the Use of Credit Ratings in the Risk-Based Capital Guidelines of the Federal Banking Agencies (12 CFR part 3).* Section 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act directs all Federal agencies to review, no later than 1 year after enactment, any regulation that requires the use of an assessment of credit-worthiness of a security or money market instrument and any references to or requirements in regulations regarding credit ratings. The agencies are also required to remove references or requirements of reliance on credit ratings and to substitute an alternative standard of credit-worthiness. Through an advanced notice of proposed rulemaking, the Federal banking agencies are seeking to gather information as they begin to review their regulations and capital standards pursuant to the Dodd-Frank Act. This ANPRM describes the areas in the agencies' risk-based capital standards (including the general risk-based capital rules, market risk rules, and advanced approaches rules) where the agencies rely on credit ratings, as well as the Basel Committee on Banking Supervision's recent amendments to the Basel Accord, which could affect those standards. The ANPRM then requests comment on potential alternatives to the use of credit ratings. The ANPRM was published on August 25, 2010 (75 FR 52283).

The OCC's regulatory priorities for fiscal year 2011 include the following:

- *Standards Governing the Release of a Suspicious Activity Report (12 CFR part 4). Confidentiality of Suspicious Activity Reports (12 CFR part 21).*

The OCC is issuing final regulations governing the release of non-public OCC information set forth in 12 CFR part 4, subpart C. The final rule clarifies that the OCC's decision to release a suspicious activity report (SAR) will be governed by the standards set forth in amendments to the OCC's SAR regulation, 12 CFR 21.11(k), that are part of a separate, but simultaneously issued, final rulemaking discussed below.

The OCC's final regulations implementing the Bank Secrecy Act governing the confidentiality of a suspicious activity report (SAR) will: Clarify the scope of the statutory prohibition on the disclosure by a national bank of a SAR; address the statutory prohibition on the disclosure by the government of a SAR as that prohibition applies to the OCC's standards governing the disclosure of SARs; clarify that the exclusive standard applicable to the disclosure of a SAR, or any information that would reveal the existence of a SAR, by the OCC is ''to fulfill official duties consistent with the purposes of the BSA''; and modify the safe harbor provision in its rules to include changes made by the USA PATRIOT Act. This final rule is based upon a similar rule prepared by the Financial Crimes Enforcement Network (FinCEN).

- *Collective Investment Funds (12 CFR part 9).* The OCC plans to develop and issue a notice of proposed rulemaking to update the regulation of short term investment funds (STIFs). The proposal would seek comment on: A proposed requirement for STIFs to adopt a stable Net Asset Value (NAV) as a fund objective; a shortened period for securities maturities, liquidity standards, and a contingency funding plan; proposed stress testing of funds; a proposal to compare NAV to market value, contingency plans, and actions to be taken at certain variances between NAV and market value; proposed disclosures to fund participants; and a proposed bank notification to the OCC if certain events impact a STIF.

Office of Thrift Supervision

As the primary Federal regulator of the thrift industry, the Office of Thrift Supervision (OTS) has established regulatory objectives and priorities to supervise thrift institutions effectively and efficiently. These objectives include maintaining and enhancing the safety and soundness of the thrift industry; a flexible, responsive regulatory structure that enables savings associations to provide credit and other financial services to their communities, particularly housing mortgage credit; and a risk-focused, timely approach to supervision.

OTS, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the banking agencies) continue to work together on regulations where they share the responsibility to implement statutory requirements. The banking agencies currently are working jointly on rules to implement provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) and to update capital standards to maintain and improve consistency in agency rules. These rules include revisions to implement the *International Convergence of Capital Management and Capital Standards: A Revised Framework (Basel II Framework)* and include*:*

- *Risk-Based Capital Standards: Market Risk:* In 2006, the banking agencies issued an NPRM on Market Risk. In the NPRM, OTS proposed to require savings associations to measure and hold capital to cover their exposure to market risk. The banking agencies did not finalize the 2006 NPRM. Subsequently, the Basel Committee directed international revisions, which were completed in July 2009. At that time, the banking agencies began drafting a new NPRM based upon the international revisions, as well as on the comments received on the 2006 NPRM. The banking agencies plan to issue a new NPRM in 2011.
- *Risk-Based Capital Standards: Standardized Approach:* In 2008, the banking agencies issued an NPRM implementing the Standardized Approach to credit risk and approaches to operational risk that are contained in the Basel II Framework. Banking organizations would be able to elect to adopt these proposed revisions or remain subject to the agencies' existing risk-based capital rules, unless the banking organization uses the Advanced Capital Adequacy Framework. The banking agencies are considering how best to move forward in adopting this proposal, particularly in light of section 939A of the Dodd-Frank Act, which directs Federal agencies to review their regulations that reference or require the use of credit ratings to assess the creditworthiness of an instrument and replace such references with uniform standards of creditworthiness.
- *Risk-Based Capital Standards: Alternatives to the Use of Credit Ratings.* The banking agencies are seeking to gather information as they begin work toward revising their capital regulations to comply with the Dodd-Frank Act. Section 939A of the Act directs all Federal agencies to review their regulations that reference or require the use of credit ratings to

assess the creditworthiness of an instrument. The Act further directs the agencies to remove such requirements and to substitute in their place uniform standards of creditworthiness.

- *Excessive Incentive-Based Compensation; Compensation Structure Disclosure:* Section 956 of the Dodd-Frank Act requires the banking agencies, the National Credit Union Administration (NCUA), the Securities and Exchange Commission (SEC), and the Federal Housing Finance Agency, to jointly prescribe regulations or guidance prohibiting any types of incentive-based payment arrangement, or any feature of any such arrangement, that the regulators determine encourages inappropriate risks by covered financial institutions by providing an executive officer, employee, director, or principal shareholder with excessive compensation, fees, or benefits, or that could lead to material financial loss to the covered financial institution. The Act also requires such agencies to jointly prescribe regulations or guidance requiring each covered financial institution to disclose to its regulator the structure of all incentive-based compensation arrangements offered by such institution sufficient to determine whether the compensation structure provides any officer, employee, director, or principal shareholder with excessive compensation or could lead to material financial loss to the institution.

In addition to the interagency risk-based capital regulatory project involving alternatives to the use of credit ratings referenced above, OTS also will undertake:

- *Alternatives to the Use of External Credit Ratings in the Regulations of the OTS:* Pursuant to the requirements of section 939 of the Dodd-Frank Act, OTS will review any non-capital regulation that requires the use of an assessment of creditworthiness of a security or money market instrument and any references to or requirements in regulations regarding credit ratings, and will remove references to or requirements of reliance on credit ratings and will substitute an alternative standard of creditworthiness.

OTS is also working on joint rulemakings with the OCC, FRB, and FDIC to implement regulations related to other statutes, including the Community Reinvestment Act (CRA) and the Gramm-Leach-Bliley Act (GLBA):

- *CRA Higher Education Loans final rule:* The banking agencies published a proposed rule on June 30, 2009, to implement section 1031 of the Higher Education Opportunity Act, which requires the agencies, when evaluating an institution's record of meeting community credit needs to consider, as a factor, low-cost education loans provided by the institution to low-income borrowers (74 FR 31209). The banking agencies plan to issue a final rule in the fall of 2010.
- *CRA Neighborhood Stabilization Program (NSP) final rule:* On June 24, 2010, the banking agencies published a proposed rule to revise the term ''community development'' to include loans, investments, and services by institutions that support, enable, or facilitate projects or activities that meet the criteria described in section 2301(c)(3) of the Housing and Economic Recovery Act of 2008 and are conducted in designated target areas identified in plans approved by the U.S. Department of Housing and Urban Development under the NSP (75 FR 36016). The agencies plan to issue a final rule in the fall of 2010.
- *Recordkeeping Requirements for Securities Activities, Joint Notice of Proposed Rulemaking*: The GLBA requires the banking agencies to adopt recordkeeping requirements sufficient to facilitate and demonstrate compliance with the exceptions to the definitions of ''broker'' or ''dealer'' for banks in the Securities Exchange Act of 1934. The banking agencies plan to issue the NPRM in the fall of 2010.

Significant final rules issued by OTS during fiscal year 2010 include:

- *Risk-Based Capital Guidelines: Impact of Modifications to Generally Accepted Accounting Principles; Consolidation of Asset-Backed Commercial Paper Programs.* On January 28, 2010 (75 FR4636), the banking agencies modified their general risk-based capital standards and advanced risk-based capital adequacy framework to eliminate the exclusion of certain consolidated asset-backed commercial paper programs from risk-weighted assets; and permit the banking agencies to require banking organizations to treat structures that are not consolidated under accounting standards as if they were consolidated for risk-based capital purposes commensurate with the risk relationship of the banking organization to the structure.
- *S.A.F.E. Mortgage Licensing:* The banking agencies, the NCUA, and the Farm Credit Administration issued a joint final rule on July 28, 2010, to amend their rules to implement the Secure and Fair Enforcement for Mortgage Licensing Act (the S.A.F.E. Act) (75 FR 44656). These amendments require an employee of a depository institution or a depository institution subsidiary regulated by a Federal banking agency, or an employee of an institution regulated by the NCUA or FCA, that engages in the business of a mortgage loan originator to register with the Nationwide Mortgage Licensing System and Registry and to obtain a unique identifier. The amendments also provide that these regulated institutions must require their employees who act as mortgage loan originators to comply with the S.A.F.E. Act's registration and unique identifier requirements and must adopt and follow written policies and procedures to assure compliance with such requirements.
- *Privacy Notices*: On December 1, 2009, OTS implemented section 728 of the Financial Services Regulatory Relief Act of 2006 by amending its privacy rules under the GLBA to include a safe harbor model privacy form (74 FR 62894). The banking agencies, the SEC, the Federal Trade Commission, and the Commodities Futures Trading Commission issued final amendments to their rules requiring that initial and annual privacy notices be sent to their customers. And, pursuant to section 728, the banking agencies adopted a model privacy form that financial institutions may rely on as a safe harbor to provide disclosures under the privacy rules.

Alcohol and Tobacco Tax and Trade Bureau

The Alcohol and Tobacco Tax and Trade Bureau (TTB) issues regulations to enforce the Federal laws relating to alcohol, tobacco, firearms, and ammunition taxes and relating to commerce involving alcohol beverages. TTB's mission and regulations are designed to:

1) Regulate with regard to the issuance of permits and authorizations to operate in the alcohol and tobacco industries;

2) Assure the collection of all alcohol, tobacco, and firearms and

ammunition taxes, and obtain a high level of voluntary compliance with all laws governing those industries; and

3) Suppress commercial bribery, consumer deception, and other prohibited practices in the alcohol beverage industry.

TTB plans to pursue one significant regulatory action during FY 2011. In 2007, the Department approved the publication of a notice of proposed rulemaking soliciting comments on a proposal to require a serving facts statement on alcohol beverage labels. The proposed statement would include information about the serving size, the number of servings per container, and per-serving information on calories and grams of carbohydrates, fat, and protein. The proposed rule would also require information about alcohol content. This regulatory action was initiated under section 105(e) of the Federal Alcohol Administration Act, 27 U.S.C. 205(e), which confers on the Secretary of the Treasury authority to promulgate regulations for the labeling of alcoholic beverages, including regulations that prohibit consumer deception and the use of misleading statements on labels and that ensure that such labels provide the consumer with adequate information as to the identity and quality of the product. TTB anticipates publication of a final rule in FY 2011.

In addition to the regulatory action described above, in FY 2011, TTB plans to give priority to the following regulatory matters:

Modernization of title 27, Code of Federal Regulations. TTB will continue to pursue its multi-year program of modernizing its regulations in title 27 of the Code of Federal Regulations (CFR). This program involves updating and revising the regulations to be more clear, current, and concise, with an emphasis on the application of plain language principles. TTB laid the groundwork for this program in 2002 when it started to recodify its regulations in order to present them in a more logical sequence. In FY 2005, TTB evaluated all of the 36 parts in chapter I of title 27 of the CFR and prioritized them as ''high,'' ''medium,'' or ''low'' in terms of the need for complete revision or regulation modernization. TTB determined importance based on industry member numbers, revenue collected, and enforcement and compliance issues identified through field audits and permit qualifications, statutory changes, significant industry innovations, and other factors. The 10 parts of title 27 of the CFR that TTB ranked as ''high'' include the five parts directing operation of the major taxpayers under the Internal Revenue Code of 1986: Part 19—Distilled Spirits Plants; part 24—Wine; part 25—Beer; part 40—Manufacture of Tobacco Products and Cigarette Papers and Tubes; and part 53—Manufacturers Excise Taxes—Firearms and Ammunition. These five parts represent nearly all the tax revenue that TTB collects. The remaining five parts rated ''high'' consist of regulations covering imports and exports (part 27—Importation of Distilled Spirits, Wines, and Beer; part 28—Exportation of Alcohol; and part 44—Exportation of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax), as well as regulations addressing the American Viticultural Area program (part 9) and TTB procedures (part 70).

To date, related to the modernization plan, TTB has published notices of proposed rulemaking to revise part 19 and to amend part 9 and has reviewed the public comments received in response to those notices. TTB also plans to put forward to the Department for publication approval an advance notice of proposed rulemaking (ANPRM) for the revision of the beer regulations in part 25. We anticipate that the final rules for parts 9 and 19 and the ANPRM for part 25 will be published in FY 2011. In FY 2011, TTB will begin a modernization effort on the export regulations in part 28 and a crosscutting modernization effort to incorporate statutory changes into the regulations.

Allergen Labeling. In FY 2006, TTB published interim regulations setting forth standards for voluntary allergen labeling of alcohol beverages. These regulatory changes were an outgrowth of changes made to the Federal Food, Drug, and Cosmetic Act by the Food Allergen Labeling and Consumer Protection Act of 2004. At the same time, TTB published a proposal to make those interim requirements mandatory. In FY 2011, TTB will continue its review of mandatory allergen labeling with a view to preparing a final rule document that would take effect on the same date as the serving facts regulatory changes discussed above.

Other Wine Labeling Issues. In FY 2011, TTB will continue to act on petitions for the establishment of new American viticultural areas (AVAs) and for the modification of the boundaries of existing AVAs. TTB also will seek Departmental publication approval of a number of other wine labeling rulemaking documents for public comment in FY 2011, including a notice of proposed rulemaking to adopt new label designation standards for wines now generally described as ''wine with natural flavors,'' and an advance notice of proposed rulemaking seeking comments on a petition requesting that the regulations be amended to limit the use of American appellations to wines produced entirely from U.S. grapes.

Specially Denatured and Completely Denatured Alcohol Formulas. In FY 2011, TTB will submit for publication approval by the Department a proposal to reclassify some specially denatured alcohol (SDA) formulas as completely denatured alcohol (CDA) for which formula submission to TTB is not required. The proposed regulatory changes would also allow other SDA formulas to be used without the submission of article formulas. These changes would allow TTB to shift its SDA-dedicated resources from the current front-end pre-market formula control approach to a post-market assessment of actual compliance with SDA regulations.

Alternation of Brewery Premises. In FY 2011, TTB will forward to the Department for publication approval a notice of proposed rulemaking to amend the TTB regulations to set forth specific standards for the approval and operation of alternating proprietorships at the same brewery premises. The proposed regulations will include standards for alternation agreements between host and tenant brewers as well as rules for recordkeeping and segregation of products made by different brewers.

Classification of Tobacco Products. In FY 2011, TTB will continue its review of standards for the classification of different tobacco products. In FY 2010, TTB published an advance notice seeking comments on appropriate standards to distinguish between pipe tobacco and roll-your-own tobacco. TTB will review comments in 2011 and proceed with further rulemaking as appropriate.

Bureau of the Public Debt

The Bureau of the Public Debt (BPD) has responsibility for borrowing the money needed to operate the Federal Government and accounting for the resulting debt, regulating the primary and secondary Treasury securities markets, and ensuring that reliable systems and processes are in place for buying and transferring Treasury securities.

BPD administers regulations: (1) Governing transactions in government securities by government securities brokers and dealers under the Government Securities Act of 1986 (GSA), as amended; (2) Implementing Treasury's borrowing authority, including rules governing the sale and issue of savings bonds, marketable Treasury securities, and State and local government securities; (3) Setting out the terms and conditions by which Treasury may buy back and redeem outstanding, unmatured marketable Treasury securities through debt buyback operations; (4) Governing securities held in Treasury's retail systems; and (5) Governing the acceptability and valuation of collateral pledged to secure deposits of public monies and other financial interests of the Federal Government.

During fiscal year 2011, BPD will accord priority to the following regulatory projects:

Savings Bond Issuing and Paying Agent Regulations. BPD plans to issue a final rule amending the savings bond issuing agent regulations (31 CFR part 317) to allow BPD to reduce the fee it pays issuing agents for submitting savings bond applications in paper form.

TreasuryDirect. BPD is ending the sale of paper savings bonds through payroll savings plans. In October 2010, BPD anticipates a rulemaking that will add electronic payroll savings plans to TreasuryDirect.

SellDirect. BPD plans to eliminate the SellDirect option from Legacy Treasury Direct and TreasuryDirect. The anticipated effective date for this rulemaking is December 31, 2010.

Financial Management Service

The Financial Management Service (FMS) issues regulations to improve the quality of Government financial management and to administer its payments, collections, debt collection, and Governmentwide accounting programs. For fiscal year 2011, FMS' regulatory plan includes the following priorities:

Management of Federal Agency Disbursements. We are amending our regulation that describes the responsibilities of Federal agencies and recipients with respect to the electronic delivery of Federal payments and establishes the circumstances under which waivers from the electronic funds transfer (EFT) requirement are available. Federal law requires that, unless waived by the Secretary of the Treasury, all Federal payments, other than payments made under the Internal Revenue Code of 1986, must be made electronically, that is, by EFT. The amendments generally require individuals to receive Federal nontax payments by EFT, effective March 1, 2011. Individuals receiving Federal payments by check on the effective date, however, may continue to do so until February 28, 2013.

For Federal benefit recipients, this means that individuals who apply for Federal benefits on or after March 1, 2011, would receive their benefit payments by direct deposit. Individuals who do not choose direct deposit of their payments to an account at a financial institution would be enrolled in the Direct Express® Debit MasterCard® card program, a prepaid card program established pursuant to terms and conditions approved by FMS. Beginning on March 1, 2013, all recipients of Federal benefit and other non-tax payments would receive their payments by direct deposit, either to a bank account or to a Direct Express® card account.

Federal Government Participation in the Automated Clearing House. We are amending our regulation governing the use of the Automated Clearing House (ACH) system by Federal agencies. The amendments adopt, with some exceptions, the ACH Rules developed by NACHA—The Electronic Payments Association (NACHA), as the rules governing the use of the ACH Network by Federal agencies. We are issuing this rule to address changes that NACHA has made to the ACH Rules since the publication of NACHA's 2007 ACH Rules book. These changes include new requirements to identify all international payment transactions using a new Standard Entry Class Code and to include certain information in the ACH record sufficient to allow the receiving financial institution to identity the parties to the transaction and to allow transactions to be screened for compliance with for Office of Foreign Assets Control (OFAC) requirements.

In addition, the amendments will: (1) Streamline the process for reclaiming post-death benefit payments from financial institutions; (2) require financial institutions to provide limited account-related customer information related to the reclamation of post-death benefit payments as permitted under the Payment Transactions Integrity Act of 2008; and (3) modify our previous guidance regarding the requirement that non-vendor payments be delivered to a deposit account in the name of the recipient.

Indorsement and Payment of Checks Drawn on the United States Treasury. By amending our regulation governing the indorsement and payment of checks drawn on the United States Treasury, we will provide Treasury with authority to debit a financial institution's reserve account at the financial institution's servicing Federal Reserve Bank for all check reclamations that the financial institution has not protested. Financial institutions will continue to have the right to file a protest with FMS if they believe a proposed reclamation is in error.

Debt Collection Authorities Under the Debt Collection Improvement Act. We are amending our regulation governing the offset of Federal tax refunds to collect delinquent State income tax obligations. The SSI Extension for Elderly and Disabled Refugees Act of 2008 amended section 6402 of the Internal Revenue Code to authorize the offset of Federal tax refunds to collect certain delinquent unemployment compensation debts owed to States by taxpayers. Treasury will incorporate the procedures necessary to collect State unemployment compensation debts reported by States as part of our centralized Treasury Offset Program.

Domestic Finance

Office of the Fiscal Assistant Secretary (OFAS)

The Office of the Fiscal Assistant Secretary develops policy for and oversees the operations of the financial infrastructure of the Federal Government, including payments, collections, cash management, financing, central accounting, and delinquent debt collection.

Anti-Garnishment. On April 19, 2010, Treasury issued a joint proposed rule with the Office of Personnel Management, the Railroad Retirement Board, the Social Security Administration, and Veterans Affairs. Treasury plans to promulgate a final joint rule, with the Federal benefit agencies, to give force and effect to various benefit agency statutes that exempt Federal benefits from garnishment. Typically, upon receipt of a garnishment order from a State court, financial institutions will freeze an account as they perform due diligence in complying with the order. The joint rule will address this practice of account freezes to ensure that benefit recipients have access to a certain amount of lifeline funds, while garnishment orders or other legal

processes are resolved or adjudicated, and will provide financial institutions with specific administrative instructions to carry out upon receipt of a garnishment order. The joint rule will apply to financial institutions but is not expected to have specific provisions for consumers, debt collectors, or banking regulators. However, the banking regulators would enforce the policy in cases of noncompliance by means of their general authorities.

Small Business Jobs Act

The Small business Jobs Act created two programs that Treasury is implementing during FY2011. First, the Act established the Small Business Lending Fund, a $30 billion fund to help small and community banks provide new loans to small businesses. The Act also established the State Small Business Credit Initiative, which provides funding to strengthen state small business lending programs. As required by the Act, Treasury expects issue guidance and regulations to implement these programs.

Federal Insurance Office (FIO)

Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank'' or ''Act'') established the Federal Insurance Office (FIO) with the Department of the Treasury. FIO will provide the federal government with dedicated expertise regarding the insurance industry. The Office will monitor the insurance industry, including identifying gaps or issues in the regulation of insurance that could contribute to a systemic crisis in the insurance industry or the United States financial system. FIO may receive and collect data and information on and from the insurance industry and insurers, enter into information-sharing agreements, analyze and disseminate data and information, and issue reports and regulations.

Office of Financial Research

Title I, Subtitle B of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203) (''Dodd-Frank Act'') establishes the Office of Financial Research (OFR). The OFR is an office within the Department of the Treasury and will be headed by a Director, appointed by the President, by and with the advice and consent of the Senate. Congress created the OFR to help facilitate financial market data gathering and analyses for the new Financial Stability Oversight Council (FSOC), which is responsible for monitoring the financial system as a whole in order to promote financial stability and for the member agencies of the FSOC. Section 153(c) of the Dodd-Frank Act provides that the OFR ''shall issue rules, regulations, and orders'' to carry out specified purposes and duties under the Act.

BILLING CODE 4810–25–S

DEPARTMENT OF VETERANS AFFAIRS (VA)

Statement of Regulatory Priorities

The Department of Veterans Affairs (VA) administers benefit programs that recognize the important public obligations to those who served this Nation. VA's regulatory responsibility is almost solely confined to carrying out mandates of the laws enacted by Congress relating to programs for veterans and their beneficiaries. VA's major regulatory objective is to implement these laws with fairness, justice, and efficiency.

Most of the regulations issued by VA involve at least one of three VA components: The Veterans Benefits Administration, the Veterans Health Administration, and the National Cemetery Administration. The primary mission of the Veterans Benefits Administration is to provide high-quality and timely nonmedical benefits to eligible veterans and their beneficiaries. The primary mission of the Veterans Health Administration is to provide high-quality health care on a timely basis to eligible veterans through its system of medical centers, nursing homes, domiciliaries, and outpatient medical and dental facilities. The primary mission of the National Cemetery Administration is to bury eligible veterans, members of the Reserve components, and their dependents in VA National Cemeteries and to maintain those cemeteries as national shrines in perpetuity as a final tribute of a grateful Nation to honor the memory and service of those who served in the Armed Forces.

VA's regulatory priorities include a special project to undertake a comprehensive review and improvement of its existing regulations. The first portion of this project is devoted to reviewing, reorganizing, and rewriting the VA's compensation and pension regulations found in 38 CFR part 3. The goal of the Regulation Rewrite Project is to improve the clarity and logical consistency of these regulations in order to better inform veterans and their family members of their entitlements.

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ENVIRONMENTAL PROTECTION AGENCY (EPA)

Statement of Priorities

Overview

Created in the wake of elevated concern about environmental pollution, the U.S. Environmental Protection Agency opened its doors in downtown Washington, DC, on December 2, 1970. EPA was established to consolidate in one agency a variety of Federal research, monitoring, standard-setting, and enforcement activities to ensure environmental protection. EPA's mission is to protect human health and to safeguard the natural environment—air, water, and land—upon which life depends. For the past 40 years, EPA has been working for a cleaner, healthier environment for the American people.

From regulating vehicle emissions to ensuring that drinking water is safe; from cleaning up toxic waste to assessing the safety of pesticides and chemicals; and from reducing greenhouse gas emissions to encouraging conservation, reuse, and recycling, EPA and its Federal, State, local, and community partners have made enormous progress in protecting the Nation's health and environment. Our air and water have both grown significantly cleaner in the last 40 years. The number of Americans receiving water that meets health standards went from 79 percent in 1993, to 92 percent in 2008. We have also reduced 60 percent of the dangerous air pollutants that cause smog, acid rain, lead poisoning, and more since the passage of the Clean Air Act in 1970. Innovations like smokestack scrubbers and catalytic converters in automobiles have helped this process. Today, new cars are 98 percent cleaner in terms of smog-forming pollutants than they were in 1970. Meanwhile, American families and businesses went from recycling about 10 percent of trash in 1980 to more than 33 percent in 2008. Eighty-three million tons of trash are recycled annually-the equivalent of cutting greenhouse gas emissions from more than 33 million automobiles.

Highlights of EPA's Regulatory Plan

Despite the Nation's progress, however, much work remains. The environmental problems the country faces today are often more complex than those of years past, and implementing solutions—both nationally and globally—are more challenging. Addressing global climate change will call for coordinated efforts to research alternative fuels and other emission reduction technologies and will require strong partnerships across many economic sectors and around the world. Increased energy consumption and higher costs underscore the need to promote alternative energy sources and invest in new technologies. EPA and States face serious challenges in improving and maintaining the Nation's drinking water and wastewater infrastructure, and both are seeking innovative ways to fund needed repairs and construction. EPA remains committed to working with global partners to advance shared priorities, not only by adapting to climate change, but also in ensuring national security, facilitating commerce, promoting sustainable development, protecting vulnerable populations, and engaging diplomatically around the world.

Deepwater BP Oil Spill

EPA responded swiftly and transparently to the Deepwater BP oil spill in the Gulf of Mexico. The Agency has been working with local, State, and Federal response partners to provide sampling and real-time monitoring of the air, water, and sediment along the Gulf Coast. These efforts are intended to help States and other Federal agencies understand the immediate and long-term impacts of oil contamination and to ensure that residents in affected areas have access to information about the quality of their water. As part of its ongoing response, the Agency has developed new ways to provide the public with the latest data and information. EPA's emergency response site (www.epa.gov/bpspill) has offered downloadable files with data on air, water, sediment, and waste conditions gathered since April 28th, just days after the spill.

This spill has seriously affected the ecological and economic health of the Gulf Coast communities. Following the emergency response with a sustained, effective recovery and rebuilding effort will require significant commitments of resources, scientific and technical expertise, and coordination with a range of partners in the months and years ahead.

Seven Guiding Priorities

The Deepwater BP oil spill and other challenges inspire the Agency and drive its commitment to excellent performance and strong, measurable results. EPA is committed to carrying out its mission while respecting its core values of science, transparency, and the rule of law. Effective, consistent enforcement is critical to achieving the human-health and environmental benefits expected from our environmental laws. To guide the Agency's efforts in 2011 and subsequent years, Administrator Lisa P. Jackson has established seven guiding priorities.

1. Taking Action on Climate Change

In 2009, EPA finalized an endangerment finding on greenhouse gases; issued the first national rules to reduce greenhouse gas emissions under the Clean Air Act; and initiated a national reporting system for greenhouse gas emissions. While EPA stands ready to help Congress craft strong, science-based climate legislation that addresses the spectrum of issues, the Agency will deploy existing regulatory tools as they are available and warranted. Using the Clean Air Act, EPA will finalize mobile source rules and provide a framework for continued improvements in that sector. In 2011, EPA will further develop the national reporting system for greenhouse gases to enable the agency to receive, quality-assure, and verify data submitted electronically from 10,000 to 15,000 covered facilities. EPA will also continue to develop common-sense solutions for reducing greenhouse gas emissions from large stationary sources like power plants. In all of this, EPA is committed to recognizing that climate change affects other parts of its core mission.

Greenhouse Gas Emissions Standards for Automobiles. Last year, EPA took the first Federal regulatory steps to address the problem of global climate change by requiring industries to report their greenhouse gas emissions, and by issuing regulations that reduce greenhouse emissions from cars and light trucks and increase the Nation's use of renewable fuels. Transportation sources emitted 28 percent of all U.S. greenhouse gas emissions in 2007 and have been the fastest-growing source of those emissions since 1990. This year EPA is taking another major step by proposing to set national emissions standards under section 202 of the Clean Air Act to control greenhouse gas emissions from heavy-duty trucks and buses.

Prevention of Significant Deterioration. In January 2011, EPA will begin implementing its Prevention of Significant Deterioration and title V Greenhouse Gas Tailoring rule. EPA issued a final rule in May 2010 that establishes a common sense approach to addressing greenhouse gas emissions from stationary sources under the Clean Air Act (CAA) permitting programs. This final rule sets thresholds for

greenhouse gas (GHG) emissions that define when permits under the New Source Review Prevention of Significant Deterioration (PSD) and title V Operating Permit programs are required for new and existing industrial facilities. The rule ''tailors'' the requirements of these CAA permitting programs to limit which facilities will be required to obtain PSD and title V permits.

2. Improving Air Quality

Since passage of the Clean Air Act Amendments in 1990, nationwide air quality has improved significantly for the six criteria air pollutants for which there are national ambient air quality standards. Despite this progress, about 127 million Americans lived in counties with air considered unhealthy in 2008. Long-term exposure to air pollution can cause cancer and damage to the immune, neurological, reproductive, cardiovascular, and respiratory systems.

Review Air Quality Standards. Despite progress, millions of Americans still live in areas that exceed one or more of the national standards. Ground-level ozone and particle pollution still present challenges in many areas of the country. This year's regulatory plan describes efforts to review the primary National Ambient Air Quality Standards (NAAQS) for carbon monoxide, lead, and particulates. In addition, the Plan includes a joint review of the secondary NAAQS for oxides of nitrogen and oxides of sulfur.

Replacing the Clean Air Interstate Rule. In the spring of 2011, EPA expects to complete and begin implementing a rule to replace the Transport Rule that was remanded by the courts in 2008. Strengthening the standards and decreasing the emissions that contribute to interstate transport of air pollution will help many areas of the country attain the standards and achieve significant improvements in public health.

Cleaner Air from Improved Technology**.** EPA continues to address toxic air pollution under authority of the Clean Air Act Amendments of 1990. The centerpiece of this effort is the ''Maximum Achievable Control Technology'' (MACT) program, which requires that all major sources of a given type use emission controls that better reflect the current state of the art. This year's regulatory plan describes MACT standards under development for electric utility steam-generating units.

3. Assuring the Safety of Chemicals

One of EPA's highest priorities is to make significant and long overdue progress in assuring the safety of chemicals. On September 29, 2009, Administrator Jackson announced clear principles to guide Congress in writing a new chemical risk management law that will fix the weaknesses in Toxic Substances Control Act (TSCA). EPA is shifting its focus to addressing high-concern chemicals and filling data gaps on widely produced chemicals in commerce. In 2011, EPA will aggressively assess and manage the risks of chemicals used in consumer products, and the workplace.

Management of Chemical Risks.EPA's Administrator has highlighted the need to strengthen EPA's chemical management program as one of her top priorities. Using sound science as a compass, the mission of the Office of Chemical Safety and Pollution Prevention (OCSPP) is to protect individuals, families, and the environment from potential risks of pesticides and other chemicals. In its implementation of these programs, OCSPP uses several different statutory authorities, including the Federal Insecticide, Fungicide, and Rodenticide Act, the Federal Food, Drug, and Cosmetic Act, the Toxic Substances Control Act (TSCA) and the Pollution Prevention Act, as well as collaborative and voluntary activities.

Enhancing EPA's Current Chemicals Management Program under TSCA. As part of this comprehensive effort, EPA has developed plans on specific chemicals, which outline the concerns that each chemical may present and specific actions the Agency will take to address those concerns. The Agency considers a range of actions to address potential risks, including utilizing for the first time the TSCA section 5(b)(4) authority to list chemicals of concern. EPA also intends to propose several regulatory actions under TSCA to gather additional information on nanoscale chemical materials, which will help the Agency assess the safety of nanoscale chemicals. EPA is also taking a number of steps to provide the public with greater access to chemical information, which includes increased web access to TSCA data and new policies for the review of confidential business information (CBI) claims for substantial risk and health and safety studies.

Addressing Concerns with Legacy Chemicals—Lead and Mercury. EPA is continuing its efforts to combat childhood lead poisoning through implementation of the Lead Renovation, Repair, and Painting (RRP) rule, which includes consideration of a proposed rule to require that renovation firms perform dust wipe testing after certain renovations and provide the results of the testing to the owners and occupants of the building. EPA also is developing a number of actions to further reduce the use of mercury in a range of products, including switches, relays, and certain measuring devices.

Protecting Subjects in Human Research involving Pesticides. On June 18, 2010, EPA settled a lawsuit over its 2006 regulation that established protections for subjects of human research involving pesticides. Under the settlement agreement, EPA agreed that by January 18, 2011, it will propose to broaden the applicability of the 2006 rule to apply to research involving intentional exposure of a human subject to ''a pesticide,'' without limitation as to the regulatory statutes under which the data might be submitted, considered, or relied upon. EPA also committed to propose amendments to the rule that would, if finalized, disallow consent by an authorized representative of a test subject and that would require the Agency, in its reviews of covered human research, to document its ethics and science considerations.

Defining the Nature of Regulated Production of Plant-Incorporated Protectants (PIPs). PIPs are pesticidal substances intended to be produced and used in living plants and the genetic material needed for their production. EPA regulates PIPs under FIFRA and FFDCA, including issuing experimental use permits and commercial registrations. However, these Acts and the current implementing regulations do not specifically address what constitutes the production of PIPs or what units are relevant for purposes of reporting amounts of PIPs produced. This has led to inconsistency and confusion in the registration of PIP-producing establishments and in the reporting of units of PIPs produced, which in turn has resulted in significant difficulties in terms of compliance and enforcement. EPA intends to propose regulations to clarify the legal requirements applicable to PIP products at various phases of production. This rule will benefit the public by ensuring that public health and the environment are adequately protected while reducing burden on the regulated community, thereby potentially reducing costs for consumers.

4. Cleaning Up Its Communities

In 2009 EPA accelerated its Superfund program and confronted significant local environmental challenges like the asbestos Public

Health Emergency in Libby, Montana and the coal ash spill in Kingston, Tennessee. Using all the tools at its disposal, including enforcement and compliance efforts, EPA will continue to focus on making safer, healthier communities in 2011. EPA meets this priority by focusing on preparation for, prevention and response to chemical and oil spills, accidents, and emergencies; enhancement of homeland security; increasing the beneficial use and recycling of secondary materials, the safe management of wastes and cleaning up contaminated property and making it available for reuse. EPA carries out these missions in partnership with other Federal agencies, states, tribes, local governments, communities, nongovernmental organizations, and the private sector. Several regulatory priorities for the upcoming fiscal year will promote stewardship and resource conservation and focus regulatory efforts on risk reduction and statutory compliance.

Financial Responsibility under Superfund. Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), establishes certain authorities concerning financial responsibility requirements. The Agency has identified classes of facilities within the Hard Rock mining industry as those for which financial responsibility requirements will be first developed. This proposal will establish requirements for financial responsibility, notification, and implementation.

Non-Hazardous Secondary Materials. The Agency has proposed to define which non-hazardous secondary materials burned in combustion units are solid wastes under the Resource Conservation and Recovery Act (RCRA). This in turn will assist the Agency in determining which non-hazardous secondary materials will be subject to the emissions standards proposed under either section 112 or section 129 of the Clean Air Act (CAA). If the non-hazardous secondary material is considered a ''solid waste,'' the unit that burns the non-hazardous secondary material would be subject to the CAA section 129 requirements, while if the non-hazardous secondary materials would not be considered a ''solid waste,'' it would be subject to the CAA section 112 requirements.

Geologic Sequestration. In 2008, the Safe Drinking Water Act Underground Injection Control Program proposed to create a new class of injection wells (Class VI) for geological sequestration (GS) of carbon dioxide (CO_2). EPA received numerous comments asking for clarification on how the Resource Conservation and Recovery Act (RCRA) hazardous waste requirements apply to CO_2 streams. EPA is now considering a proposed rule under RCRA to explore a number of options.

5. Protecting America's Waters

Despite considerable progress, America's waters remain imperiled. Water quality and enforcement programs face complex challenges, from nutrient loadings and stormwater runoff to invasive species and drinking water contaminants. These challenges demand both traditional and innovative strategies.

Improving Water Quality. EPA plans to address challenging water quality issues in several rulemakings during fiscal year 2011.

Stormwater. First, EPA plans to propose a national rule to address stormwater discharges from new development and redevelopment and explore other regulatory improvements to its stormwater program. To address the degradation of water quality caused by stormwater discharges from impervious cover, EPA is exploring regulatory options, including establishing specific post construction requirements for stormwater discharges from, at a minimum, new development and redevelopment. Stormwater discharges from areas of impervious cover in developed areas are a significant contributor to water quality impairments in receiving waters.

Sanitary Sewer Overflows. EPA is also considering proposing modifications to the NPDES regulations as they apply to municipal sanitary sewer collection systems and sanitary sewer overflows (SSOs) in order to better protect the environment and public health from the harmful effects of sanitary sewer overflows and basement back ups. Some of the changes EPA is considering include establishing standard permit conditions for publicly owned treatment works (POTW) permits that specifically address sanitary sewer collection systems and SSOs, and clarifying the regulatory framework for applying NPDES permit conditions to municipal satellite collection systems. Municipal satellite collection systems are sanitary sewers owned or operated by a municipality that conveys wastewater to a POTW operated by a different municipality.

Use of Offsets. EPA plans to propose a National Pollutant Discharge Elimination System permit regulation for new dischargers and the appropriate use of offsets with regard to water quality permitting. This action may consider how to best clarify EPA's approach to permitting new dischargers in order to ensure the protection of water quality under Clean Water Act and may examine options to address the appropriate and permissible use of offsets which ensures that NPDES permits are protective of water quality standards. Additionally, EPA may examine options for addressing new dischargers in impaired waters, both when a TMDL is in place and prior to TMDL issuance.

Concentrated Animal Feeding Operations. In 2008, EPA amended the concentrated animal feeding operation (CAFO) regulation to require, among other things, CAFOs that discharge or propose to discharge to seek coverage under an NPDES permit. Under the authority of section 308 of the Clean Water Act, EPA is proposing a rule to collect facility information from all CAFOs which will provide a CAFO inventory and assist in implementing the 2008 CAFO rule.

Cooling Water Intake Structures. EPA plans to propose standards for cooling water intakes for electric power plants and for other manufacturers who use large amounts of cooling water. The goal of the proposed rule will be to protect aquatic organisms from being killed or injured through impingement or entrainment.

Improving Clean Water Act Enforcement. EPA has the primary responsibility to ensure that the Clean Water Act's (CWA) National Pollutant Discharge Elimination System (NPDES) program is effectively and consistently implemented across the country, thus ensuring that public health and environmental protection goals of the CWA are met. EPA needs site-specific information to provide national NPDES program direction and oversight, to inform Congress and the public, and to better ensure protection of public health and the environment. EPA plans to propose an NPDES Electronic Reporting Rule that will seek to improve the EPA's access to facility-specific information for the diverse universe of NPDES-regulated sources of wastewater discharges. Electronic reporting of NPDES information may be sought from NPDES permittees and/or States.

6. Expanding the Conversation on Environmentalism and Working for Environmental Justice.

Environmentalism has been described as a conversation that we all must have

because it is about protecting people in the places they live, work, and raise families. In FY 2011, the Agency is focused on expanding the conversation to include new stakeholders and involve communities in more direct ways.

In managing risk and in ensuring that environmental rules protect all Americans, EPA directs its efforts toward identifying and mitigating exposures and other factors in our communities, schools, homes, and workplaces that might negatively impact human health and environmental quality. A renewed focus is being placed on the continuing Environmental Justice (EJ) efforts to address the environmental and public health concerns of minority, low income, tribal, and other disproportionately burdened communities and focus on improving environmental and public health protection in these communities.

Environmental Justice in Rulemaking. In July 2010, EPA released an interim guidance document to help Agency staff include environmental justice principles in its rulemaking process. The rulemaking guidance is an important and positive step toward meeting EPA Administrator Lisa P. Jackson's priority to work for environmental justice and protect the health and safety of communities who have been disproportionately impacted by pollution. In carrying out this mandate, EPA will also seek to ensure that such communities do not experience disproportionate economic impacts from its programs and regulations.

Children's Health. The protection of vulnerable subpopulations is one of the EPA's top priorities, especially with regard to children. EPA's revitalized Children's Health Office is bringing a new energy to safeguarding children through the entire Agency's regulatory and enforcement efforts. In 2011, EPA will co-lead an interagency effort in integrating existing school programs including asthma, indoor air quality, chemical safety and management, green practices, and enhanced use of integrated pest management.

7. Building Strong State and Tribal Partnerships

EPA's success depends more than ever on working with increasingly capable and environmentally conscious partners. The Agency works with the States and tribes, business and industry, nonprofit organizations, environmental groups, and educational institutions in a wide variety of collaborative efforts. Currently, more than 13,000 firms and other organizations participate in EPA partnership programs. States and tribal nations bear important responsibilities for the day-to-day mission of environmental protection, but declining tax revenues and fiscal challenges are pressuring State agencies and tribal governments to do more with fewer resources. EPA must do its part to support State and tribal capacity.

Recognizing the Right of Tribes as Sovereign Nations. In FY 2009, EPA Administrator Jackson reaffirmed the Agency's Indian Policy, which recognizes that the United States has a unique legal relationship with tribal governments based on treaties, statutes, executive orders, and court decisions. EPA recognizes the right of Tribes as sovereign governments to self-determination and acknowledges the federal government's trust responsibility to Tribes. In FY 2011, EPA and Tribes are focusing on drinking water, sanitation, schools, and properly managing solid and hazardous waste on tribal lands.

Conclusion

These priorities will guide EPA's work in the years ahead. They are built around the challenges and opportunities inherent in our mission to protect human health and the environment for all Americans. This mission is carried out by respecting EPA's core values of science, transparency, and the rule of law. Within these parameters, EPA carefully considers the impacts its regulatory actions will have on society.

Aggregate Costs and Benefits

EPA has calculated a combined aggregate estimate of the costs and benefits of regulations included in the regulatory plan. For the fiscal year 2009, EPA has been able to gather sufficient data on 5 of the 30 anticipated regulations to include them in an aggregate estimate. For the remaining actions, costs and benefits have not yet been calculated for various reasons.

The regulations included in the aggregate estimate of costs and benefits are:

- Federal Transport Rule;
- Combined Rulemaking for Industrial, Commercial, and Institutional Boilers and Process Heaters at Major Sources of HAP and Industrial, Commercial, and Institutional Boilers at Area Sources;
- National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial & Institutional Boilers and Process Heaters;
- Lead; Clearance and Clearance Testing Requirements for the Renovation, Repair, and Painting Program; and
- Criteria and Standards for Cooling Water Intake Structures—Phase II Remand.

EPA obtained aggregate estimates of total costs and benefits assuming both a 3 percent discount rate and a 7 percent discount rate. One of the five regulations (TSCA Lead Renovation) included costs estimates but provided no estimate of the monetized benefit of the rule. Given a 3 percent discount rate, benefits range from $144 billion to $349 billion. With a 7 percent discount rate, benefits range from $132 billion to $323 billion. Costs were relatively constant, approximately $6 billion, regardless of the discount rate. All values are 2008 dollars. For the two rules that did not use a 2008 base year, values were converted using a GDP deflator.

These results should be considered with caution for a number of reasons. First, there are significant gaps in data. In general, the benefits estimates reported above do not include values for benefits that have been quantified but not monetized and missing values for qualitative benefits, such as some human health benefits and ecosystem health improvements. Second, methodologies and types of costs/benefits considered are inconsistent, as are the units of analysis. Some of the costs/benefits are described as annualized values while other values are specific to one year. Third, problems with aggregation can arise from differing baselines. Finally, the ranges presented do not reflect the full range of uncertainty in the benefit and cost estimates for these rules.

Rules Expected to Affect Small Entities

By better coordinating small business activities, EPA aims to improve its technical assistance and outreach efforts, minimize burdens to small businesses in its regulations, and simplify small businesses' participation in its voluntary programs. Actions that may affect small entities can be tracked on EPA's Rulemaking Gateway (http://www.epa.gov/lawsregs/rulemaking/index.html) at any time. This Plan includes a number of rules that may be of particular interest to small entities:

- National Emission Standards for Hazardous Air Pollutants for Area

Sources: Industrial, Commercial, and Institutional Boilers (2060-AM44);

- National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters (2060-AQ25);
- Lead; Clearance and Clearance Testing Requirements for the Renovation, Repair, and Painting Program (2070-AJ57)
- Stormwater Regulations Revision to Address Discharges from Developed Sites (2040-AF13).

EPA

PROPOSED RULE STAGE

130. REVIEW OF THE NATIONAL AMBIENT AIR QUALITY STANDARDS FOR CARBON MONOXIDE

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 7408; 42 USC 7409

CFR Citation:

40 CFR 50

Legal Deadline:

NPRM, Judicial, October 28, 2010, US District Court Northern District of CA San Francisco Division 5/5/08.

Final, Judicial, May 13, 2011, US District Court Northern District of CA San Francisco Division 5/5/08.

Abstract:

Under the Clean Air Act, EPA is required to review and, if appropriate, revise the air quality criteria for the primary (health-based) and secondary (welfare-based) national ambient air quality standards (NAAQS) every 5 years. The last CO NAAQS review occurred in 1994 with a decision by the Administrator not to revise the existing standards. The current review which initiated in September 2007 includes the preparation of an Integrated Science Assessment, Risk/Exposure Assessment, and a Policy Assessment Document by EPA, with opportunities for review by EPA's Clean Air Scientific Advisory Committee and the public. These documents inform the Administrator's decision as to whether to retain or revise the standards.

Statement of Need:

As established in the Clean Air Act, the national ambient air quality standards for carbon monoxide are to be reviewed every 5 years.

Summary of Legal Basis:

Section 109 of the Clean Air Act (42 U.S.C. 7409) directs the Administrator to propose and promulgate ''primary'' and ''secondary'' national ambient air quality standards for pollutants identified under section 108 (the ''criteria'' pollutants). The ''primary'' standards are established for the protection of public health, while ''secondary'' standards are to protect against public welfare.

Alternatives:

The main alternatives for the Administrator's decision on the review of the national ambient air quality standards for CO are whether to retain or revise the existing standards.

Anticipated Cost and Benefits:

The Clean Air Act makes clear that the economic and technical feasibility of attaining standards are not to be considered in setting or revising the NAAQS, although such factors may be considered in the development of State plans to implement the standards. Accordingly, the Agency prepares cost and benefit information in order to provide States information that may be useful in considering different implementation strategies for meeting proposed or final standards. Cost and benefit information is not developed to support a NAAQS rulemaking until sufficient policy and scientific information is available to narrow potential options for the form and level associated with any potential revisions to the standard. Therefore, work on developing the plan for conducting the cost and benefit analysis will generally start 1 1/2 to 2 years following the start of a NAAQS review.

Risks:

During the course of this review, risk assessments will be conducted to evaluate health risks associated with retention or revision of the CO standards.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	
Final Action	08/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, State, Local, Tribal

Additional Information:

EPA Docket information: EPA-HQ-OAR-2008-0015

URL For More Information:

http://www.epa.gov/ttn/naaqs/standards/co/s__co__index.html

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RIN: 2060–AI43

EPA

131. REVIEW OF THE NATIONAL AMBIENT AIR QUALITY STANDARDS FOR PARTICULATE MATTER

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 7408; 42 USC 7409

CFR Citation:

40 CFR 50

Legal Deadline:

None

Abstract:

Under the Clean Air Act, EPA is required to review and, if appropriate, revise the air quality criteria for the primary (health-based) and secondary (welfare-based) national ambient air quality standards (NAAQS) every 5 years. On October 17, 2006, EPA published a final rule to revise the primary and secondary NAAQS for particulate matter to provide increased protection of public health and welfare. With regard to the primary standard for fine particles (generally referring to particles less than or equal to 2.5 micrometers in diameter, PM2.5), EPA

revised the level of the 24-hour PM2.5 standard to 35 micrograms per cubic meter (ug/m3) and retained the level of the annual PM2.5 standard at 15 ug/m3. With regard to primary standards for particles generally less than or equal to 10 micrometers in diameter (PM10), EPA retained the 24-hour PM10 standard and revoked the annual PM10 standard. With regard to secondary PM standards, EPA made them identical in all respects to the primary PM standards, as revised. EPA initiated the current review in 2007 with a workshop to discuss key policy-relevant issues around which EPA would structure the review. This review includes the preparation of an Integrated Science Assessment (ISA), Risk/Exposure Assessment (REA), and a Policy Assessment (PA) by EPA, with opportunities for review by EPA's Clean Air Scientific Advisory Committee and the public. These documents inform the Administrator's decision as to whether to retain or revise the standards. The ISA was completed in December 2009, the final REAs for health risk assessment and visibility assessment were finalized in June and July 2010, respectively. The first draft PA was reviewed by CASAC on April 8-9, 2010. The second draft Policy Assessment was reviewed by CASAC on July 26-27, 2010.

Statement of Need:

As established in the Clean Air Act, the national ambient air quality standards for particulate matter are to be reviewed every 5 years.

Summary of Legal Basis:

Section 109 of the Clean Air Act (42 U.S.C. 7409) directs the Administrator to propose and promulgate ''primary'' and ''secondary'' national ambient air quality standards for pollutants identified under section 108 (the ''criteria'' pollutants). The ''primary'' standards are established for the protection of public health, while ''secondary'' standards are to protect against public welfare.

Alternatives:

The main alternatives for the Administrator's decision on the review of the national ambient air quality standards for particulate matter are whether to retain or revise the existing standards and, if revisions are necessary, the indicators, averaging times, forms and levels of the revised standards. Options for these alternatives will be developed as the rulemaking proceeds.

Anticipated Cost and Benefits:

The Clean Air Act makes clear that the economic and technical feasibility of attaining standards are not to be considered in setting or revising the NAAQS, although such factors may be considered in the development of State plans to implement the standards. Accordingly, the Agency prepares cost and benefit information in order to provide States information that may be useful in considering different implementation strategies for meeting proposed or final standards. Cost and benefit information is not developed to support a NAAQS rulemaking until sufficient policy and scientific information is available to narrow potential options for the form and level associated with any potential revisions to the standard. Therefore, work on developing the plan for conducting the cost and benefit analysis will generally start 1 1/2 to 2 years following the start of a NAAQS review.

Risks:

During the course of this review, risk assessments have been conducted to evaluate health risks associated with retention or revision of the particulate matter standards.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	
Final Action	11/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, Local, State, Tribal

Additional Information:

EPA Docket information: EPA-HQ-OAR-2007-0492

URL For More Information:

www.epa.gov/air/particlepollution/

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RIN: 2060–AO47

EPA

132. REVIEW OF THE SECONDARY NATIONAL AMBIENT AIR QUALITY STANDARDS FOR OXIDES OF NITROGEN AND OXIDES OF SULFUR

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 7408; 42 USC 7409

CFR Citation:

40 CFR 50

Legal Deadline:

NPRM, Judicial, July 12, 2011.

Final, Judicial, March 20, 2012, The court has approved the amendments to the consent decree incorporating the revised dates.

Abstract:

Under the Clean Air Act, EPA is required to review and, if appropriate, revise the air quality criteria for the primary (health-based) and secondary (welfare-based) national ambient air quality standards (NAAQS) every 5 years. On October 11, 1995, EPA published a final rule not to revise either the primary or secondary NAAQS for nitrogen dioxide (NO2). On May 22, 1996, EPA published a final decision that revisions of the primary and secondary NAAQS for sulfur dioxide (SO2) were not appropriate at that time, aside from several minor technical changes. On December 9, 2005, EPA's Office of Research and Development (ORD) initiated the current periodic review of NO2 air quality criteria with a call for information in the Federal Register (FR). On May 3, 2006, ORD initiated

the current periodic review of SO2 air quality criteria with a call for information in the FR. Subsequently, the decision was made to review the oxides of nitrogen and the oxides of sulfur together, rather than individually, with respect to a secondary welfare standard for NO2 and SO2. This decision derives from the fact that NO2, SO2, and their associated transformation products are linked from an atmospheric chemistry perspective, as well as from an environmental effects perspective, most notably in the case of secondary aerosol formation and acidification in ecosystems. This review includes the preparation of an Integrated Science Assessment (ISA), Risk/Exposure Assessment (REA), and a Policy Assessment Document (PAD) by EPA, with opportunities for review by EPA's Clean Air Scientific Advisory Committee and the public. These documents inform the Administrator's proposed decision as to whether to retain or revise the standards. It should be noted that this review will be limited to only the secondary standards; the primary standards for SO2 and NO2 were reviewed separately. The ISA, REA and first draft PAD have been completed and a review of the second draft PAD by CASAC is anticipated on October 6 and 7, 2010.

Statement of Need:

As established in the Clean Air Act, the national ambient air quality standards for oxides of nitrogen and oxides of sulfur are to be reviewed every 5 years.

Summary of Legal Basis:

Section 109 of the Clean Air Act (42 U.S.C. 7409) directs the Administrator to propose and promulgate ''primary'' and ''secondary'' national ambient air quality standards for pollutants identified under section 108 (the ''criteria'' pollutants). The ''primary'' standards are established for the protection of public health, while ''secondary'' standards are to protect against public welfare.

Alternatives:

The main alternatives for the Administrator's decision on the review of the national ambient air quality standards for oxides of nitrogen and oxides of sulfur are whether to retain or revise the existing standards.

Anticipated Cost and Benefits:

The Clean Air Act makes clear that the economic and technical feasibility of attaining standards are not to be considered in setting or revising the NAAQS, although such factors may be considered in the development of State plans to implement the standards. Accordingly, the Agency prepares cost and benefit information in order to provide States information that may be useful in considering different implementation strategies for meeting proposed or final standards. Cost and benefit information is not developed to support a NAAQS rulemaking until sufficient policy and scientific information is available to narrow potential options for the form and level associated with any potential revisions to the standard. Therefore, work on the developing the plan for conducting the cost and benefit analysis will generally start 1 1/2 to 2 years following the start of a NAAQS review.

Risks:

During the course of this review, risk assessments may be conducted to evaluate public welfare risks associated with retention or revision of the NOx/SOx secondary standards.

Timetable:

Action	Date	FR Cite
NPRM	07/00/11	
Final Action	03/00/12	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, Local, State, Tribal

Additional Information:

EPA Docket information: EPA-HQ-OAR-2007-1145

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RIN: 2060–AO72

EPA

133. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR COAL– AND OIL–FIRED ELECTRIC UTILITY STEAM GENERATING UNITS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

Clean Air Act sec 112(d)

CFR Citation:

40 CFR 63

Legal Deadline:

NPRM, Judicial, March 16, 2011, No later than March 16, 2011, EPA shall sign for publication in the **Federal Register** a notice of proposed rulemaking.

Final, Judicial, November 16, 2011, No later than November 16, 2011, EPA shall sign for publication in the **Federal Register** a notice of final rulemaking.

Abstract:

On May 18, 2005 (70 FR 28606), EPA published a final rule requiring reductions in emissions of mercury from Electric Utility Steam Generating Units. That rule was vacated on February 8, 2008, by the U.S. Court of Appeals for the District of Columbia Circuit. As a result of that vacatur, coal- and oil-fired electric utility steam generating units remain on the list of sources that must be regulated under section 112 of the Clean Air Act (CAA). The Agency will develop standards under CAA section 112(d), which will reduce hazardous air pollutant (HAP) emissions from this source category. Recent court decisions on other CAA section 112(d) rules will be considered in developing this regulation.

Statement of Need:

Section 112(n)(1)(A) of the Clean Air Act required EPA to conduct a study of the hazards to public health resulting from emissions of hazardous air pollutants from electric utility steam generating units and, after considering the results of that study, determine whether it was appropriate and necessary to regulate such units under section 112. The study was completed in 1998 and in December 2000, EPA determined that it was appropriate and necessary to regulate coal- and oil-fired electric utility steam generating units

and added such units to the list of sources for which standards must be developed under section 112. The February 8, 2008, vacatur of the May 18, 2005, Clean Air Mercury Rule and March 29, 2005, section 112(n) Revision Rule (which had removed such sources from the list) resulted in the requirement to regulate under section 112 being reinstated.

Summary of Legal Basis:

Clean Air Act, section 112

Alternatives:

Not yet determined.

Anticipated Cost and Benefits:

Not yet determined.

Risks:

Not yet determined.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	
Final Action	11/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Federal, Local, State, Tribal

Federalism:

Undetermined

Additional Information:

EPA Docket information: EPA-HQ-OAR-2009-0234

Sectors Affected:

221112 Fossil Fuel Electric Power Generation

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RIN: 2060–AP52

EPA

134. CONTROL OF GREENHOUSE GAS EMISSIONS FROM MEDIUM AND HEAVY–DUTY VEHICLES

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

Clean Air Act sec 202

CFR Citation:

40 CFR 1036, 1037, 1066, and 1068

Legal Deadline:

None

Abstract:

This action will be jointly proposed by the Environmental Protection Agency (EPA) and the Department of Transportation (DOT) to set national emission standards under the Clean Air Act (CAA) and Energy Independence and Security Act (EISA) to reduce greenhouse gas emissions and improve fuel energy for heavy duty trucks and buses. This rulemaking would significantly reduce GHG emissions from future heavy duty vehicles by setting GHG standards that would lead to the introduction of GHG-reducing vehicle and engine technologies. This action follows the U.S. Supreme Court decision in Massachusetts vs. EPA and would follow EPA's formal determination on endangerment for GHG emissions. This rulemaking also follows the Advance Notice of Proposed Rulemaking ''Regulating Greenhouse Gas Emissions Under the Clean Air Act,'' (73 FR 44354, Jul. 20, 2008).

Statement of Need:

EPA recently proposed to find that emissions of greenhouse gases from new motor vehicles and engines cause or contribute to air pollution that may reasonably be anticipated to endanger public health and welfare. Therefore, there is a need to reduce GHG emissions from medium- and heavy-duty vehicles to protect public health and welfare. The medium- and heavy-duty truck sector accounts for approximately 18 percent of the U.S. mobile source GHG emissions and is the second largest mobile source sector. GHG emissions from this sector are forecast to continue increasing rapidly; reflecting the anticipated impact of factors such as economic growth and increased movement of freight by trucks. This rulemaking would significantly reduce GHG emissions from future medium- and heavy-duty vehicles by setting GHG standards that will lead to the introduction of GHG reducing vehicle and engine technologies.

Summary of Legal Basis:

The Clean Air Act section 202(a)(1) states that ''The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.'' Section 202(a) covers all on-highway vehicles including medium- and heavy-duty trucks. In April 2007, the Supreme Court found in Massachusetts v. EPA that greenhouse gases fit well within the Act's capacious definition of ''air pollutant'' and that EPA has statutory authority to regulate emission of such gases from new motor vehicles. Lastly, in April 2009, EPA issued the Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Clean Air Act. The endangerment proposal stated that greenhouse gases from new motor vehicles and engines cause or contribute to air pollution that may reasonably be anticipated to endanger public health and welfare.

Alternatives:

The rulemaking proposal will include an evaluation of regulatory alternatives that can be considered in addition to the Agency's primary proposal. In addition, the proposal is expected to include tools such as averaging, banking, and trading of emissions credits as an alternative approach for compliance with the proposed program.

Anticipated Cost and Benefits:

Detailed analysis of economy-wide cost impacts, greenhouse gas emission reductions, and societal benefits will be performed during the rulemaking process. Initial estimates indicate that the vehicles produced during the first 5 years after implementation of the program could achieve reductions of up to 250 million metric ton of CO2 emissions during the lifetime of these trucks. The costs associated with the GHG control technologies are expected to pay for themselves through fuel cost savings within the first 2 to 5 years of the vehicle's life.

Risks:

The failure to set new GHG standards for medium- and heavy-duty trucks risks continued increases in GHG emissions from the trucking industry and therefore increased risk of unacceptable climate change impacts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	
Final Action	08/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Undetermined

Additional Information:

SAN No. 5355.

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RIN: 2060–AP61

EPA

135. ● REVIEW OF THE NATIONAL AMBIENT AIR QUALITY STANDARDS FOR LEAD

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 7408; 42 USC 7409

CFR Citation:

40 CFR 50

Legal Deadline:

None

Abstract:

Under the Clean Air Act Amendments of 1977, EPA is required to review and if appropriate revise the air quality criteria for the primary (health-based) and secondary (welfare-based) national ambient air quality standards (NAAQS) every 5 years. On November 12, 2008, EPA published a final rule to revise the primary and secondary NAAQS for lead to provide increased protection for public health and welfare. With regard to the primary standard, EPA revised the level to 0.15 micrograms per cubic meter (ug/m3) of lead in total suspended particles and the averaging time to a rolling 3-month period with a maximum (not-to-be-exceeded) form, evaluated over a 3-year period. EPA revised the secondary standard to be identical in all respects to the revised primary standard. EPA has now initiated the next review. The review began in May 2010 with a workshop to discuss key policy-relevant issues around which EPA would structure the review. This review includes the preparation of an Integrated Science Assessment, and if warranted, a Risk/Exposure Assessment and also a Policy Assessment Document by EPA, with opportunities for review by EPA's Clean Air Scientific Advisory Committee and the public. These documents inform the Administrator's proposed decision as to whether to retain or revise the standards.

Statement of Need:

As established in the Clean Air Act, the national ambient air quality standards for lead are to be reviewed every 5 years.

Summary of Legal Basis:

Section 109 of the Clean Air Act (42 U.S.C. 7409) directs the Administrator to propose and promulgate ''primary'' and ''secondary'' national ambient air quality standards for pollutants identified under section 108 (the ''criteria'' pollutants). The ''primary'' standards are established for the protection of public health, while ''secondary'' standards are to protect against public welfare.

Alternatives:

The main alternatives for the Administrator's decision on the review of the national ambient air quality standards for lead are whether to retain or revise the existing standards.

Anticipated Cost and Benefits:

The Clean Air Act makes clear that the economic and technical feasibility of attaining standards are not to be considered in setting or revising the NAAQS, although such factors may be considered in the development of State plans to implement the standards. Accordingly, the Agency prepares cost and benefit information in order to provide States information that may be useful in considering different implementation strategies for meeting proposed or final standards. Cost and benefit information is not developed to support a NAAQS rulemaking until sufficient policy and scientific information is available to narrow potential options for the form and level associated with any potential revisions to the standard. Therefore, work on developing the plan for conducting the cost and benefit analysis will generally start 1 1/2 to 2 years following the start of a NAAQS review.

Risks:

During the course of this review, risk assessments may, as warranted, be conducted to evaluate health and/or environmental risks associated with retention or revision of the lead standards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/13	
Final Action	10/00/14	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, Local, State, Tribal

Additional Information:

EPA Docket information: EPA-HQ-OAR-2010-0108

URL For More Information:

http://www.epa.gov/ttn/naaqs/standards/pb/s__pb__index.html

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RIN: 2060–AQ44

EPA

136. NPDES ELECTRONIC REPORTING RULE

Priority:

Other Significant

Legal Authority:

CWA secs 304(i) and 501(a), 33 USC 1314(i) and 1361(a)

CFR Citation:

40 CFR 123, 403, and 501

Legal Deadline:

None

Abstract:

The U.S. Environmental Protection Agency (EPA) has responsibility to ensure that the Clean Water Act's (CWA) National Pollutant Discharge Elimination System (NPDES) program is effectively and consistently implemented across the country. This regulation would identify the essential information that EPA needs to receive electronically, primarily from NPDES permittees with some data required from NPDES agencies (NPDES-authorized States, territories, and tribes) to manage the national NPDES permitting and enforcement program. Through this regulation, EPA seeks to ensure that such facility-specific information would be readily available, accurate, timely, and nationally consistent on the facilities that are regulated by the NPDES program.

In the past, EPA primarily obtained this information from the Permit Compliance System (PCS). However, the evolution of the NPDES program since the inception of PCS has created an increasing need to better reflect a more complete picture of the NPDES program and the diverse universe of regulated sources. In addition, information technology has advanced significantly so that PCS no longer meets EPA's national needs to manage the full scope of the NPDES program or the needs of individual States that use PCS to implement and enforce the NPDES program.

Statement of Need:

As the NPDES program and information technology have evolved in the past several decades, the Permit Compliance System (PCS), EPA's NPDES national data system, which has been in use since 1985, has become increasingly ineffective in meeting the full scope of EPA's and individual State's needs to manage, direct, oversee, and report on the implementation and enforcement of the NPDES program. Therefore, a NPDES component of EPA's existing Integrated Compliance Information System (ICIS), ICIS-NPDES, was designed and constructed based upon EPA and State input to manage data for the full breadth of the NPDES program. This rulemaking would identify essential NPDES-specific information EPA needs to receive from NPDES agencies (authorized States and tribes, as well as EPA Regions). This information will be managed by EPA in a format compatible with the new NPDES component of the Integrated Compliance Information System (ICIS) in order to better enable EPA to ensure the protection of public health and the environment, effectively manage the national NPDES permitting and enforcement program, identify and address environmental problems, and ultimately replace PCS. This action would be of interest primarily to NPDES permittees, NPDES-authorized states, and to the public at large, which would ultimately have increased access to this NPDES information.

Summary of Legal Basis:

In 1972, Congress passed the Clean Water Act to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'' 33 U.S.C. 1251(a). The Clean Water Act established a comprehensive program for protecting and restoring our Nation's waters. The Clean Water Act prohibits the discharge of pollutants from a point source to waters of the United States except when authorized by a National Pollutant Discharge Elimination System (NPDES) permit. The Clean Water Act established the NPDES permit program to authorize and regulate the discharges of pollutants to waters of the United States. EPA has issued comprehensive regulations that implement the NPDES program at 40 CFR parts 122 to 125, 129 to 133, 136, and subpart N.

Under the NPDES permit program, point sources subject to regulation may discharge pollutants to waters of the United States subject to the terms and conditions of an NPDES permit. With very few exceptions (40 CFR 122.3), point sources require NPDES permit authorization to discharge, including both municipal and industrial discharges. NPDES permit authorization may be provided under an individual NPDES permit, which is developed after a process initiated by a permit application (40 CFR 122.21), or under a general NPDES permit, which, among other things, applies to one or more categories of dischargers (e.g., oil and gas facilities, seafood processors) with the same or substantially similar types of operations and the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal [40 CFR 122.28(a)(2)].

The U.S. Environmental Protection Agency has the primary responsibility to ensure that the NPDES program is effectively and consistently implemented across the country, thus ensuring that public health and environmental protection goals of the CWA are met. Many States and some territories have received authorization to implement and enforce the NPDES program, and EPA works with its State partners to ensure effective program implementation and enforcement. CWA section 304(i)(2) directs EPA to promulgate guidelines establishing the minimum procedural and other elements of a State, territory, or tribal NPDES program, including monitoring requirements, reporting requirements (including procedures to make information available to the public), enforcement provisions, and funding, personnel qualifications, and manpower requirements [CWA section 304(i)(2)].

EPA published NPDES State, territory, and tribal program regulations under CWA section 304(i)(2) at 40 CFR part 123. Among other things, the part 123 regulations specify NPDES program requirements for permitting, compliance evaluation programs, enforcement authority, sharing of information, transmission of information to EPA, and noncompliance and program reporting to EPA.

This proposed rulemaking may add some specificity to those particular regulations regarding what NPDES information is required to be submitted to EPA by States and may modify other regulations to require electronic reporting of NPDES information by NPDES permittees to the States and EPA.

Alternatives:

For this proposed rulemaking, EPA has determined that the need for EPA's receipt of such NPDES information exists. If, for whatever reason, electronic reporting by permittees is not a feasible option for certain NPDES information, the obvious alternative would be for EPA to require States to provide that information to EPA. The States already receive that information from the permittees, and therefore, they have the information that EPA seeks.

Within the rulemaking process itself, various alternatives are under consideration based on the feasibility of particular electronic reporting options. For example, EPA may consider establishing requirements for electronic reporting of discharge monitoring reports by NPDES permittees. Under this proposed rulemaking, EPA may consider establishing similar requirements for any or all of the following types of NPDES information: Notices of intent to discharge (for facilities seeking coverage under general permits), permitting information (including permit applications), various program reports (e.g., pretreatment compliance reports from approved local pretreatment programs, annual reports from concentrated animal feeding operations, biosolids reports, sewage overflow incident reports, annual reports for pesticide applicators, annual reports for municipal storm water systems), and annual compliance certifications.

Some States might also raise the possibility of supplying only summary-level information to EPA rather than facility-specific information to EPA. Based upon considerable experience, EPA considers such alternative non-facility-specific data to be insufficient to meet its needs, except in very particular situations or reports.

One alternative that EPA may consider for rule implementation is whether third-party vendors may be better equipped to develop and modify such electronic reporting tools than EPA.

Anticipated Cost and Benefits:

The economic analysis for this proposed rulemaking has not yet been completed; therefore, the dollar values of estimated costs and benefits are not yet known. However, some generalizations can still be made regarding expectations. EPA anticipates that electronic reporting of discharge monitoring reports (DMRs) by NPDES permittees will provide significant data entry cost savings for States and EPA. These discharge monitoring reports are already required to be submitted by NPDES permittees to States and EPA, which in turn currently enter that information into the State NPDES data system or EPA's national NPDES data system. These discharge monitoring reports contain significant amounts of information regarding pollutants discharged, identified concentrations and quantities of pollutants, discharge locations, etc. Through electronic reporting by permittees, States, and EPA will no longer have associated data entry costs to enter this information. Electronic reporting by NPDES permittees of other NPDES information (such as notices of intent to discharge or various program reports) may also yield considerable data entry savings to the States and EPA.

In addition, some States have been able to quantify savings by the permittees to electronically report their NPDES information using existing electronic reporting tools. Such savings are being examined in the economic analysis process for this rulemaking.

Additional benefits of this rule will likely include improved transparency of information regarding the NPDES program, improved information regarding the national NPDES program, improved targeting of resources and enforcement based on identified program needs and noncompliance problems, and ultimately improved protection of public health and the environment.

Some NPDES information will need to be reported by States to EPA; therefore, there will be some data entry costs associated with that information, but it will likely be far less than the savings that will be realized by States through electronic reporting by NPDES permittees. In addition, EPA will likely have sizable costs to develop tools for electronic reporting by permittees, as well as operation and maintenance costs associated with those tools.

Risks:

Given the scope of this proposed rulemaking, the most significant risks associated with this effort may be those if EPA does not proceed with this rulemaking. At this point, EPA does not receive sufficient NPDES information from the States to be able to fully assess the implementation of the national NPDES program nor the smaller subprograms. Such information is not currently required by EPA from the States, and the lack of such reporting requirements perpetuates this problem. Furthermore, EPA does not have facility-specific information regarding most of the facilities regulated under the NPDES program, and therefore, EPA cannot easily identify potential implementation problems or noncompliance problems. This lack of information may adversely impact EPA's ability to better ensure the protection of public health and the environment, nationally and locally.

A potential risk associated with this rule may involve EPA efforts to develop electronic reporting tools for use by permittees. The costs associated with the internal development of such tools, possibly for multiple types of NPDES information from various types of NPDES permittees, and the future costs of operation and maintenance may be substantial for EPA, possibly impacting the availability of funding for other purposes. Furthermore, EPA would also need to determine the feasibility of ensuring that the electronic tools can be flexible enough to meet State needs and work well with State data systems. Problems in the development and maintenance of these electronic tools could pose significant risks for the effective implementation of this rule.

Timetable:

Action	Date	FR Cite
Notice—Public Meeting	07/01/10	75 FR 38068
NPRM	04/00/11	
Final Action	04/00/12	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

State

Federalism:

This action may have federalism implications as defined in EO 13132.

Additional Information:

SAN No. 5251

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RIN: 2020–AA47

EPA

137. REGULATIONS TO FACILITATE COMPLIANCE WITH THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT BY PRODUCERS OF PLANT–INCORPORATED PROTECTANTS (PIPS)

Priority:

Other Significant

Legal Authority:

7 USC 136a et seq

CFR Citation:

40 CFR 174; 40 CFR 152; 40 CFR 156; 40 CFR 167; 40 CFR 168; 40 CFR 169; 40 CFR 172

Legal Deadline:

None

Abstract:

Plant-Incorporated Protectants (PIPs) are pesticidal substances intended to be produced and used in living plants and the genetic material needed for their production. EPA regulates PIPs under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including issuing experimental use permits and commercial registrations. In 2001, EPA published rules establishing much of the current regulatory structure for PIPs. This rulemaking effort is intended to address the issues that were not addressed in 2001, including defining the nature of regulated production of PIPs and associated issues such as reporting, product labeling and record keeping. The rule will affect those persons who produce PIPs and is expected to clarify the legal requirements of their products at various production phases, improving their ability to conduct business. It is expected to also improve the ability of the EPA to identify and respond to instances where there are potentially significant violations. EPA also intends to address activities that the Agency does not believe warrant regulation and will consider exempting those activities, as appropriate, from FIFRA in whole or in part.

Statement of Need:

This action is needed to clarify PIP regulations for the Agency and PIP developers, producers and farmers. Section 7 of FIFRA requires producers of pesticides to register their establishments with EPA and to submit annual reports stating the amounts of pesticides produced at each establishment. However, neither the Act nor the regulations promulgated under section 7 specifically address what constitutes the production of PIPs, or what units are relevant for purposes of reporting amounts of PIPs produced. This has led to inconsistency and confusion in the registration of PIP-producing establishments and in the reporting of units of PIPs produced. Members of the PIP production industry have indicated that they are uncertain of their legal obligations for PIPs under FIFRA section 7 and have requested guidance on these matters. The Agency reviewed the concerns raised by industry and other stakeholders and reached the conclusion that, because of problems inherent in the application of the current regulations to this class of pesticides known as PIPs, EPA is unable to provide guidance. As written, the current regulations have been difficult to enforce with respect to PIPs. Ambiguity regarding the applicability of section 7 requirements makes it difficult for EPA and regulators in States and tribes to monitor production and subsequent distribution, sale and use of products, and can cause difficulties with respect to compliance inspection and enforcement. State and tribal involvement in compliance oversight can be greatly complicated by a lack of clear compliance requirements. This uncertainty may be resolved by a substantive modification of the regulations through rulemaking.

Summary of Legal Basis:

EPA has regulatory authority to promulgate regulations under FIFRA sections 3(a), 8(a), 25(a), and 25(b) (7 U.S.C. 136a(a), 136f(a), 136w(a), and 136w(b)).

PIPs are pesticides under FIFRA section 2 because they are introduced into plants with the intention of ''preventing, destroying, repelling, or mitigating any pest. . ..'' (7 U.S.C. 136(u)).

Under FIFRA section 2, any person who manufactures, prepares, compounds, propagates or processes any pesticide is a ''producer.'' (7 U.S.C. 136(w)). FIFRA section 7 requires that producers of pesticides register the establishments where production occurs and requires that producers report their annual production (7 U. S. C. 136e). In addition, FIFRA section 8 provides that EPA may issue regulations requiring producers to maintain records with respect to their operations and to make such records available for inspection (7 U. S. C. 136f). Under FIFRA section 9, appropriately credentialed inspectors have the authority to conduct inspections at pesticide producing establishments, or other places where pesticides are being held for distribution or sale, for the purpose of inspecting products, labels and records, and for obtaining samples (7 U. S. C. 136g).

FIFRA section 3(a) states that ''[t]o the extent necessary to prevent unreasonable adverse effects on the environment, the Administrator may by regulation limit the distribution, sale, or use in any State of any pesticide that is not registered under this Act and that is not the subject of an experimental use permit under section 5 or an emergency exemption under section 18.''

FIFRA section 8(a) states that ''[t]he Administrator may prescribe regulations requiring producers, registrants, and applicants for registration to maintain such records with respect to their operations and the pesticides and device produced as the Administrator determines are necessary for the effective enforcement of this Act and to make the records available for inspection and copying in the same manner as provided in [FIFRA section 8(b)] .''

FIFRA section 25(a) states that ''[t]he Administrator is authorized in accordance with the procedure described in [sec. 25(a)(2) of the Act], to prescribe regulations to carry out the provisions of this Act. Such regulations shall take into account the difference in concept and usage between various classes of pesticides, including public health pesticides, and differences in environmental risk and the appropriate data for evaluating such risk between agricultural, nonagricultural, and public health pesticides.''

FIFRA section 25(b) states that ''[t]he Administrator may exempt from the requirements of this Act by regulation any pesticide which the Administrator determines either (1) to be adequately regulated by another Federal agency, or (2) to be of a character which is unnecessary to be subject to this Act in order to carry out the purposes of this Act.''

Alternatives:

Alternatives will be presented in the preamble to the proposed rule.

Anticipated Cost and Benefits:

The Agency is conducting an economic analysis to inform decisions for the proposed rule. Anticipated benefits include greater certainty and

transparency in terms of applicable requirements for these products. Since the proposed rulemaking is currently still under development, information about anticipated costs is not yet available.

Risks:

This rulemaking is not intended to address a specific risk associated with registered PIPs. However, facilitating compliance with FIFRA requirements could minimize potential risks associated with inadvertent noncompliance. In addition the rulemaking is intended to provide a means to identify and minimize risks associated with use of unregistered PIPs for production for export.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/07	72 FR 16312
Notice of Public Meeting	04/11/07	72 FR 18191
ANPRM: Extension of Comment Period	05/23/07	72 FR 28911
ANPRM Comment Period End	06/13/07	
ANPRM Comment Period Extended To	07/13/07	
NPRM	09/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

Federal, State, Tribal

Additional Information:

EPA publication information: ANPRM - http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480220026; EPA Docket information: EPA-HQ-OPP-2006-1003

Sectors Affected:

61131 Colleges, Universities and Professional Schools; 111 Crop Production; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 54171 Research and Development in the Physical Sciences and Engineering Sciences

URL For More Information:

http://www.epa.gov/pesticides/biopesticides/pips/index.htm

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RIN: 2070–AJ32

EPA

138. MERCURY; REGULATION OF USE IN CERTAIN PRODUCTS

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

15 USC 2605

CFR Citation:

40 CFR 750

Legal Deadline:

None

Abstract:

Mercury is well documented as a toxic, environmentally persistent substance that demonstrates the ability to bioaccumulate and to be atmospherically transported on a local, regional, and global scale. In addition, mercury can be environmentally transformed into methylmercury, which biomagnifies and is highly toxic. EPA has conducted a preliminary analysis via the Risk-Based Prioritization of Mercury in Certain Products. By compiling data pertaining to the stated costs, advantages, and disadvantages associated with mercury-free alternatives to certain mercury-containing products, EPA made a preliminary judgment that effective and economically feasible alternatives exist. These products include switches, relays/contactors, flame sensors, button cell batteries, and measuring devices (e.g., non-fever thermometers, manometers, barometers, pyrometers, flow meters, and psychrometers/hygrometers). Therefore, EPA is evaluating whether an action (or combination of actions) under Toxic Substances Control Act (TSCA) is appropriate for mercury used in such products. As appropriate, such an action(s) would involve a group(s) of these products. Specifically, EPA will determine whether the continued use of mercury in one or more of these products would pose an unreasonable risk to human health and the environment.

Statement of Need:

Mercury is well documented as a toxic, environmentally persistent substance that demonstrates the ability to bioaccumulate and to be atmospherically transported on a local, regional, and global scale. In addition, mercury can be environmentally transformed into methylmercury, which biomagnifies and is highly toxic. Human health risks associated with elemental mercury and methylmercury are well documented. Humans can be exposed from products directly to elemental mercury vapor and indirectly through fish contaminated with methylmercury. EPA has conducted a preliminary analysis via the Risk-Based Prioritization of Mercury in Certain Products. By compiling data pertaining to the stated costs, advantages, and disadvantages associated with mercury-free alternatives to certain mercury-containing products, EPA made a preliminary judgment that effective and economically feasible alternatives exist. In its initial prioritization of mercury in certain products, EPA considered mercury's well documented toxicity, persistence, ability to bioaccumulate, ability to be environmentally transformed into methylmercury, and its demonstrated ability to be transported globally as well as locally and the availability of effective and economically feasible alternatives for mercury in certain products. EPA believes manufacturing, processing, use, or disposal of elemental mercury in these products may result in significant potential for human and environmental exposures to elemental mercury and methylmercury.

Summary of Legal Basis:

EPA is evaluating whether an action (or combination of actions) under Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 et seq., is appropriate for mercury used in certain products. TSCA provides EPA with authority to require reporting, recordkeeping, and

testing requirements, and restrictions relating to chemical substances and/or mixtures. Specifically, section 4 authorizes EPA to require testing of chemicals by manufacturers, importers, and processors where risks or exposures of concern are found. Section 5 authorizes EPA to require prior notice by manufacturers, importers, and processors when it identifies a ''significant new use'' that could result in exposures to, or releases of, a substance of concern. Section 6 gives EPA the authority to protect against unreasonable risk of injury to health or the environment from chemical substances. If EPA finds that there is a reasonable basis to conclude that the chemical's manufacture, processing, distribution, use or disposal presents an unreasonable risk, EPA may by rule take action to: prohibit or limit manufacture, processing, or distribution in commerce; prohibit or limit the manufacture, processing, or distribution in commerce of the chemical substance above a specified concentration; require adequate warnings and instructions with respect to use, distribution, or disposal; require manufacturers or processors to make and retain records; prohibit or regulate any manner of commercial use; prohibit or regulate any manner of disposal; and/or require manufacturers or processors to give notice of the unreasonable risk of injury, and to recall products if required. Section 8 authorizes EPA to require reporting and recordkeeping by persons who manufacture, import, process, and/or distribute chemical substances in commerce.

Alternatives:

EPA has conducted a preliminary analysis via the Risk-Based Prioritization of Mercury in Certain Products. By compiling data pertaining to the stated costs, advantages, and disadvantages associated with mercury-free alternatives to certain mercury-containing products, EPA made a preliminary judgment that effective and economically feasible alternatives exist.

Anticipated Cost and Benefits:

As part of the economic, exposure, and risk assessment to support the current action, EPA is conducting a comprehensive use-substitute analysis and industry profile that will consider the costs and benefits of an action (or combination of actions) under Toxic Substances Control Act (TSCA). Those assessments consider the costs of mercury-containing and mercury-free alternatives and the impact that any action would have on potentially affected stakeholders, including economic, human health, and environmental criteria.

Risks:

As part of the economic, exposure, and risk assessment to support the current action, EPA is conducting a comprehensive use-substitute analysis and industry profile that will consider the risks associated with an action (or combination of actions) under Toxic Substances Control Act (TSCA). Those assessments consider the relative toxicity and other considerations associated with mercury-free alternatives to mercury-containing products and the impact that any action would have on potentially affected stakeholders, including economic, human health, and environmental criteria.

Timetable:

Action	Date	FR Cite
NPRM	10/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Businesses

Government Levels Affected:

Undetermined

Federalism:

Undetermined

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information:

SAN No. 5312

URL For More Information:

http://www.epa.gov/mercury/

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RIN: 2070–AJ46

EPA

139. NANOSCALE MATERIALS; REPORTING UNDER TSCA SECTION 8(A)

Priority:

Other Significant

Legal Authority:

15 USC 2607(a) TSCA 8(a)

CFR Citation:

40 CFR 704

Legal Deadline:

None

Abstract:

Under section 8(a) of the Toxic Substances Control Act (TSCA), EPA is developing a proposal to establish reporting requirements for certain nanoscale materials. This rule would propose that persons who manufacture these nanoscale materials notify EPA of certain information including production volume, methods of manufacture and processing, exposure and release information, and available health and safety data. The proposed reporting of these activities will provide EPA with an opportunity to evaluate the information and consider appropriate action under TSCA to reduce any risk to human health or the environment.

Statement of Need:

EPA is proposing reporting requirements under section 8(a) of TSCA for persons who are manufacturing, importing, or processing existing nanoscale materials in commerce to collect data on these

activities. The data will help EPA to take any measures to ensure that nanoscale materials are manufactured and used in a manner that protects against unreasonable risks to human health and the environment.

Summary of Legal Basis:

Section 8(a) of TSCA authorizes the Administrator to promulgate rules, which require each person (other than a small manufacturer, importer, or processor) who manufactures, imports, processes, or proposes to manufacture, import, or process a chemical substance, to maintain such records and submit such reports as the Administrator may reasonably require.

Alternatives:

EPA developed a voluntary Nanoscale Materials Stewardship Program (NMSP) to complement and support its regulatory activities on nanoscale materials. EPA initiated the NMSP to quickly learn about commercially available nanoscale materials by soliciting existing data and information on a voluntary basis from manufacturers, importers, processors, and users of nanoscale materials. In addition, the program was designed to identify and encourage use of risk management practices in developing and commercializing nanoscale materials. In its NMSP interim report, EPA identified data gaps for existing nanoscale material production, uses, and exposures, based on the information EPA received prior to January 2009. For example, EPA estimated that companies provided information on only about 10 percent of the nanomaterials that may be commercially available. EPA is proposing reporting requirements under section 8(a) of TSCA for persons who are manufacturing, importing, or processing nanoscale materials in commerce to address some of the data gaps identified in the NMSP interim report. EPA has not identified any other activities, including regulatory activities under TSCA that would address data gaps for existing nanoscale materials.

Anticipated Cost and Benefits:

EPA has evaluated the potential costs of 8(a) reporting requirements for potential manufacturers, importers, and processors that would be subject to the proposed rule. If an entity were to submit a notice to the Agency, the annual burden is estimated to average 157 hours per response. This information would facilitate EPA's evaluation of the materials and consideration of appropriate action under TSCA to reduce any unreasonable risk to human health or the environment.

Risks:

There is a growing body of scientific evidence showing the differences that exist between nanoscale material(s) and their non-nanoscale counterpart(s). Nanoscale materials may have different or enhanced properties—for example, electrical, chemical, magnetic, mechanical, thermal, or optical properties—or features, such as improved hardness or strength, that are highly desirable for applications in commercial, medical, military, and environmental sectors. These properties are a direct consequence of small size, which results in a larger surface area per unit of volume and/or quantum effects that occur at the nanometer scale (i.e., 1 x 10-9 meters). Small size itself can also be a desirable property of nanoscale materials that is exploited for miniaturization of applications/processes and/or stabilization or delivery of payloads to diverse environments or incorporation into diverse products.

The properties that can make nanoscale materials desirable for commercial applications also raise questions whether the small size of nanoscale materials or the unique or enhanced properties of nanoscale materials may, under specific conditions, pose new or increased hazards to humans and the environment. Government, academic, and private sector scientists in multiple countries are performing research into the environmental and human health effects of diverse nanoscale materials, resulting in a substantial and rapidly growing body of scientific evidence. These research findings point to the possibility for nanoscale materials to affect human health and the environment adversely. Research also indicates that not all materials in the nanoscale size range behave differently from larger sized materials of the same substance.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

EPA Docket information: EPA—HQ—OPPT—2010-0572

Sectors Affected:

325 Chemical Manufacturing; 324 Petroleum and Coal Products Manufacturing

URL For More Information:

http://www.epa.gov/oppt/nano/

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RIN: 2070–AJ54

EPA

140. NANOSCALE MATERIALS; SIGNIFICANT NEW USE RULE (SNUR)

Priority:

Other Significant

Legal Authority:

15 USC 2604

CFR Citation:

40 CFR 721

Legal Deadline:

None

Abstract:

EPA is developing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for nanoscale materials. This action would require persons who intend to manufacture, import, or process this/these chemical substance(s) for an activity that is designated as a significant new use by this proposed rule to notify EPA at least 90 days before commencing that activity. The required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs to prevent unreasonable risk to human health or the environment.

Statement of Need:

EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of TSCA that would designate as a significant new use, any use of chemical substances as nanoscale materials after the proposed date of the rule. Persons who intend to manufacture, import, or process these chemical substances for the new use after the date of the proposed rule would be required to notify EPA at least 90 days before commencing that activity. The required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs to prevent any unreasonable risks to human health or the environment.

Summary of Legal Basis:

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including those listed in TSCA section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use (15 U.S.C. 2604(a)(1)(B)).

Alternatives:

Nanoscale materials based on chemical substances already on the TSCA Inventory are considered existing chemical substances. These nanoscale materials do not require reporting as new chemical substances because they are nanoscale forms of chemical substances already in commerce. If EPA does not use authority under 5(a)(2) of TSCA to require notification of new uses of nanoscale materials, EPA would have to use existing chemical authority under sections 4, 6, and 8 of TSCA to gather data and address any unreasonable risks.

Anticipated Cost and Benefits:

EPA has evaluated the potential costs of reporting requirements for potential manufacturers, importers, and processors that would be subject to the significant new use rule. If an entity were to submit a notice to the Agency, the annual burden is estimated to average 95 hours per response. The required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs to prevent any unreasonable risks to human health or the environment.

Risks:

There is a growing body of scientific evidence showing the differences that exist between nanoscale material(s) and their non-nanoscale counterpart(s). Nanoscale materials may have different or enhanced properties—for example, electrical, chemical, magnetic, mechanical, thermal, or optical properties—or features, such as improved hardness or strength, that are highly desirable for applications in commercial, medical, military, and environmental sectors. These properties are a direct consequence of small size, which results in a larger surface area per unit of volume and / or quantum effects that occur at the nanometer scale (i.e., 1 x 10-9 meters). Small size itself can also be a desirable property of nanoscale materials that is exploited for miniaturization of applications/processes and/or stabilization or delivery of payloads to diverse environments or incorporation into diverse products.

The properties that can make nanoscale materials desirable for commercial applications also raise questions whether the small size of nanoscale materials or the unique or enhanced properties of nanoscale materials may, under specific conditions, pose new or increased hazards to humans and the environment. Government, academic, and private sector scientists in multiple countries are performing research into the environmental and human health effects of diverse nanoscale materials, resulting in a substantial and rapidly growing body of scientific evidence. These research findings point to the possibility for nanoscale materials to affect human health and the environment adversely. Research also indicates that not all materials in the nanoscale size range behave differently from larger sized materials of the same substance.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses

Government Levels Affected:

None

Additional Information:

EPA Docket information: EPA—HQ—OPPT—2010-0572

URL For More Information:

http://www.epa.gov/oppt/nano/

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RIN: 2070–AJ67

EPA

141. ● REVISIONS TO EPA'S RULE ON PROTECTIONS FOR SUBJECTS IN HUMAN RESEARCH INVOLVING PESTICIDES

Priority:

Other Significant

Legal Authority:

PL 109–54, sec 201; 5 USC 301; 42 USC 300v–1(b); 7 USC 136 to 136y; 21 USC 346a

CFR Citation:

40 CFR 26

Legal Deadline:

NPRM, Judicial, January 18, 2011, Settlement Agreement Deadline for the Administrator's Signature.

Final, Judicial, December 18, 2011, Settlement Agreement Deadline for the Administrator's Signature.

Abstract:

As part of a settlement agreement, EPA will propose revisions to the existing rule governing the protection of subjects in human research involving pesticides. The current rule, issued in 2006, provides protections for subjects in human research by (1) prohibiting research conducted or supported by EPA that would involve intentional exposure of human subjects who are children or pregnant or nursing women; (2) prohibiting EPA reliance in actions under the pesticide laws on research

involving intentional exposure of children or pregnant or nursing women; (3) extending the substantive requirements of the Common Rule to the design and execution of research conducted by third-parties who intend to submit the data to EPA under the pesticide laws; and (4) establishing the Human Studies Review Board, an independent expert panel to review proposals for new research and reports of covered human research on which EPA proposes to rely under the pesticide laws. In settling this litigation, EPA agreed to propose to broaden the applicability of the 2006 rule to apply to research involving intentional exposure of a human subject to ''a pesticide,'' without limitation as to the regulatory statutes under which the data might be submitted, considered, or relied upon. The new proposed rule, therefore, would apply to all research with ''pesticides,'' as that term is defined in 7 U.S.C. 136(u) [Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), sec. 2(u)], submitted, considered, or relied upon under any regulatory statute that EPA administers. EPA also committed in the settlement agreement to propose amendments to the rule that would disallow consent by an authorized representative of a test subject and that would require the Agency, in its reviews of covered human research, to document its ethics and science considerations in terms of the recommendations articulated in the National Research Council's 2004 report, Intentional Human Dosing Studies for EPA Regulatory Purposes.

Statement of Need:

In 2006, EPA promulgated a regulation governing the protection of subjects in human research involving pesticides. EPA settled litigation challenging the 2006 rule by promising to conduct this rulemaking.

Summary of Legal Basis:

Public Law 109-54, section 201; 5 U.S.C. 301; 42 U.S.C. 300v-1(b); 7 U.S.C. 136 to 136y; 21 U.S.C. 346a

Alternatives:

This action involves proposal of amendments to the 2006 rule consistent with a negotiated settlement, followed by receipt and response to public comments and promulgation of a final rule. Because alternative educational, voluntary, incentive-based, market-based, or other non-regulatory approaches could not resolve the legal challenge to the 2006 rule, they are not being considered. EPA retains discretion to adopt a final rule that differs from its proposal.

Anticipated Cost and Benefits:

Impacts are expected to be primarily procedural and limited to the costs of supporting the rulemaking effort itself. Expected benefits from this action will result from resolution of the litigation and establishing the stability of the rules governing regulated human research with pesticides by third parties.

Risks:

Although no research is known of that would fall outside the scope of the 2006 rule but within the scope of the proposed amendment, this action addresses a perceived loophole for unethical human pesticide research to be submitted to EPA and relied on by the Agency under other regulatory statutes.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	
Final Action	12/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal

URL For More Information:

http://www.epa.gov/oppfead1/guidance/human-test.htm

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RIN: 2070–AJ76

EPA

142. HAZARDOUS WASTE MANAGEMENT SYSTEMS: IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: CARBON DIOXIDE (CO2) INJECTATE IN GEOLOGICAL SEQUESTRATION ACTIVITIES

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 6903; 42 USC 6912; 42 USC 6921–24

CFR Citation:

40 CFR 261

Legal Deadline:

None

Abstract:

On July 25, 2008, EPA published a proposed rule under the Safe Drinking Water Act Underground Injection Control Program to create a new class of injection wells (Class VI) for geological sequestration (GS) of carbon dioxide (CO2). 73 FR 43492. In response to that proposal, EPA received numerous comments asking for clarification on how the Resource Conservation and Recovery Act (RCRA) hazardous waste requirements apply to CO2 streams. EPA is now considering a proposed rule under RCRA to explore a number of options, including a conditional exemption from the RCRA requirements for hazardous CO2 streams in order to facilitate implementation of GS, while protecting human health and the environment.

Statement of Need:

The Agency is taking this action in order to reduce the uncertainty associated with managing CO2 streams under RCRA subtitle C, which will enable the continued research and deployment of carbon capture storage activities.

Summary of Legal Basis:

EPA expects the regulations to be proposed under the authority of sections 1004, 2002, 3001, 3002, 3003, and 3004 of RCRA, 42 U.S.C. 6903, 6912, 6921, 6922, 6923, and 6924.

Alternatives:

EPA intends to analyze options for clarifying the applicability of RCRA subtitle C to CO2 streams being

captured, transported, and sequestered in Class VI UIC wells, including a conditional exemption from the hazardous waste regulations.

Anticipated Cost and Benefits:

The economic impact assessment for this action is presently under development, and there are no preliminary estimates of costs or benefits at this time.

Risks:

EPA intends to evaluate how requirements under other statutes and programs (for example, Department of Transportation (DOT) regulations, and EPA's Underground Injection Control Class VI rule) may adequately address potentially unacceptable risks from the capture, transport, and geologic sequestration of CO2 streams. Therefore, EPA does not expect to perform a separate risk assessment of those CO2 streams.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Federal, State

Sectors Affected:

31-33 Manufacturing; 48-49 Transportation; 22 Utilities

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RIN: 2050–AG60

EPA

143. ● FINANCIAL RESPONSIBILITY REQUIREMENTS UNDER CERCLA SECTION 108(B) FOR CLASSES OF FACILITIES IN THE HARD ROCK MINING INDUSTRY

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

42 USC 9601 et seq.; 42 USC 9608 (b)

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, establishes certain authorities concerning financial responsibility requirements. The Agency has identified classes of facilities within the Hard Rock mining industry as those for which financial responsibility requirements will be first developed. EPA intends to include requirements for financial responsibility, as well as notification and implementation.

Statement of Need:

The Agency is currently examining various classes of facilities that may produce, transport, treat, store or dispose of hazardous substances for development of financial responsibility requirements under CERCLA section 108(b).

Summary of Legal Basis:

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended.

Alternatives:

To be determined.

Anticipated Cost and Benefits:

To be determined.

Risks:

To be determined.

Timetable:

Action	Date	FR Cite
Priority Notice	07/28/09	74 FR 37213
NPRM	04/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

Additional Information:

EPA publication information: Priority Notice - http://www.regulations.gov/search/Regs/home.html#documentDetail?R=09000064809fc1ff; Split from RIN 2050-AG56.; EPA Docket information: EPA-HQ-SFUND-2009-0834

Sectors Affected:

212 Mining (except Oil and Gas)

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RIN: 2050–AG61

EPA

144. NPDES PERMIT REQUIREMENTS FOR MUNICIPAL SANITARY AND COMBINED SEWER COLLECTION SYSTEMS, MUNICIPAL SATELLITE COLLECTION SYSTEMS, SANITARY SEWER OVERFLOWS, AND PEAK EXCESS FLOW TREATMENT FACILITIES

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

33 USC 1311 CWA 301; 33 USC 1314 CWA 304; 33 USC 1318 CWA 308; 33 USC 1342 CWA 402; 33 USC 1361 CWA 501(a)

CFR Citation:

40 CFR 122.38; 40 CFR 122.41; 40 CFR 122.42

Legal Deadline:

None

Abstract:

EPA will develop a notice of proposed rulemaking outlining a broad-based regulatory framework for sanitary sewer collection systems under the NPDES program. The Agency is considering proposing standard permit conditions for inclusion in permits for publicly owned treatment works (POTWs) and municipal sanitary sewer collection systems. The standard requirements would address reporting, public notification, and recordkeeping requirements for sanitary sewer overflows (SSOs), capacity assurance, management, operation, and maintenance requirements for municipal sanitary sewer collection systems; and a prohibition on SSOs. The Agency is also considering proposing a regulatory framework for applying NPDES permit conditions, including applicable standard permit conditions, to municipal satellite collection systems. Municipal satellite collection systems are sanitary sewers owned or operated by a municipality that conveys wastewater to a POTW operated by a different municipality.

Statement of Need:

EPA is developing a rule to modify the National Pollutant Discharge Elimination System regulations as they apply to municipal sanitary sewer collection systems and sanitary sewer overflows in order to better protect the environment and public health from the harmful effects of sanitary sewer overflows and basement back ups.

Summary of Legal Basis:

The Agency is undertaking this effort to help advance the Clean Water Act objective to restore and maintain the chemical, physical, and biological integrity of the Nation's waters (CWA, sec. 101 (a)).

Alternatives:

EPA will consider a variety of options during the rulemaking process.

Anticipated Cost and Benefits:

EPA will consider anticipated costs and benefits during the rulemaking process.

Risks:

EPA will consider potential risks during the rulemaking process.

Timetable:

Action	Date	FR Cite
Notice—Public Meeting	06/01/10	75 FR 30395
NPRM	11/00/11	
Final Action	11/00/12	

Regulatory Flexibility Analysis Required:

Undetermined

Small Entities Affected:

Governmental Jurisdictions

Government Levels Affected:

Federal, Local, State, Tribal

Federalism:

Undetermined

Additional Information:

EPA Docket information: EPA—HQ—OW— 2010—0464

Sectors Affected:

22132 Sewage Treatment Facilities

URL For More Information:

www.epa.gov/npdes

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RIN: 2040–AD02

EPA

145. CRITERIA AND STANDARDS FOR COOLING WATER INTAKE STRUCTURES

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

Undetermined

Legal Authority:

CWA 101; CWA 308; CWA 316; CWA 402; CWA 501; CWA 510

CFR Citation:

40 CFR 9; 40 CFR 122; 40 CFR 123; 40 CFR 124; 40 CFR 125

Legal Deadline:

None

Abstract:

Section 316(b) of the Clean Water Act (CWA) requires EPA to ensure that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available (BTA) for minimizing adverse environmental impacts. In developing regulations to implement section 316(b), EPA divided its effort into three rulemaking phases. Phase II, for existing electric generating plants that use at least 50 MGD of cooling water, was completed in July 2004. Industry and environmental stakeholders challenged the Phase II regulations. On review, the U.S. Court of Appeals for the Second Circuit remanded several key provisions. In July 2007, EPA suspended Phase II. Following the decision in the Second Circuit, several parties petitioned the U.S. Supreme Court to review that decision, and the Supreme Court granted the petitions, limited to the issue of whether the Clean Water Act authorized EPA to consider the relationship of costs and benefits in establishing section 316(b) standards. On April 1, 2009, the Supreme Court reversed the Second Circuit, finding that the Agency may consider cost-benefit analysis in its decisionmaking but not holding that the Agency must consider costs and benefits in these decisions. In June 2006, EPA promulgated the Phase III regulation, covering existing electric generating plants using less than 50 MGD of cooling water, new offshore oil and gas facilities, and all existing manufacturing facilities. Petitions to review this rule were filed in the U.S. Court of Appeals for the Fifth Circuit. EPA has asked for, and was granted a partial voluntary remand of the determinations in the Phase III regulation concerning existing facilities, in order to issue a regulation that addresses both Phase II and III existing facilities. EPA expects this new rulemaking would apply to the approximately 1,200 existing electric generating and manufacturing plants.

Statement of Need:

In the absence of national regulations, NPDES permit writers have developed requirements to implement section 316(b) on a case-by-case basis. This may result in a range of different requirements, and, in some cases, delays in permit issuance or reissuance. This regulation may have substantial ecological benefits.

Summary of Legal Basis:

The Clean Water Act requires EPA to establish best technology available standards to minimize adverse environmental impacts from cooling water intake structures. On February 16, 2004, EPA took final action on regulations governing cooling water intake structures at certain existing power producing facilities under section 316(b) of the Clean Water Act (Phase II rule). 69 FR 41576 (Jul. 9, 2004). These regulations were challenged , and the Second Circuit remanded several provisions of the Phase II rule on various grounds. Riverkeeper, Inc. v. EPA, 475F.3d83, (2d Cir., 2007). EPA suspended most of the rule in response to the remand. 72 FR 37107 (Jul. 9, 2007). The remand of Phase III does not change permitting requirements for these facilities. Until the new rule is issued, permit directors continue to issue permits on a case-by-case, Best Professional Judgment basis for Phase II facilities.

Alternatives:

This analysis will cover various sizes and types of potentially regulated facilities, and control technologies. EPA is considering whether to regulate on a national basis, by subcategory, by broad water body category, or some other basis.

Anticipated Cost and Benefits:

The technologies under consideration in this rulemaking are similar to the technologies considered for the original Phase II and Phase III rules. Those costs evaluated for the Phase II remanded rule, in 2002 dollars, ranged from $389 million (the final rule option) to $440 million (the final rule option at proposal) to $1 billion to $3.5 billion (closed cycle cooling for facilities on certain waterbodies, or at all facilities). The monetized benefits of the original final rule were estimated to be $82 million. The monetized benefits include only the use value associated with quantifiable increases in commercial and recreational fisheries. Non-use benefits were not analyzed. The costs and benefits of the Phase III option most closely aligned with the Phase II option co-promulgated were $38.3 million and $2.3 million respectively, in 2004 dollars. EPA will develop new costs and benefits estimates for this new effort.

Risks:

Cooling water intake structures may pose significant risks for aquatic ecosystems.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	
Final Action	07/00/12	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Federal, Local, State

Federalism:

Undetermined

Additional Information:

EPA Docket information: EPA-HQ-OW-2008-0667

URL For More Information:

www.epa.gov/waterscience/316b

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RIN: 2040–AE95

EPA

146. STORMWATER REGULATIONS REVISION TO ADDRESS DISCHARGES FROM DEVELOPED SITES

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Unfunded Mandates:

Undetermined

Legal Authority:

33 USC 1251 et seq

CFR Citation:

Not Yet Determined

Legal Deadline:

NPRM, Judicial, September 30, 2011, Chesapeake Bay Settlement Agreement; May 11, 2010; Fowler v US EPA, No 1 :09–CV –00005–CKK (D DC).

Final, Judicial, November 19, 2012, Chesapeake Bay Settlement Agreement; May 11, 2010; Fowler v US EPA, No 1 :09–CV –00005–CKK (D DC).

Abstract:

Stormwater discharge from developed areas is a major cause of degradation of surface waters. This is true for both conveyance of pollutants and the erosive power of increased stormwater flow rates and volumes. Current stormwater regulations were promulgated in 1990 and 1999. In 2006, the Office of Water asked the National Research Council (NRC) to review the stormwater program and recommend ways to strengthen it. The NRC Report, which was finalized in October 2008, found that the current stormwater program ''. . .is not likely to adequately control stormwater's contribution to waterbody impairment'' and recommended that EPA take action to address the harmful effects of stormwater flow. This proposed action would establish requirements for, at minimum, managing stormwater discharges from newly developed and re-developed sites, to reduce the amount of pollutants in stormwater discharges entering receiving waters by reducing the discharge of excess stormwater. This action may also expand the scope of municipal separate storm sewer systems (MS4) required to be regulated under NPDES permits, to include rapidly developing areas and to cover some discharges that are not currently regulated. The Phase I and Phase II MS4 regulations might also be combined and amended, and may include provisions for retrofitting existing development. In order to comply with the Executive order issued by President Obama on Mat 12, 2010, that among other things, require EPA to identify ways to strengthen stormwater management practices within the Bay watershed in order to restore and protect the Bay and its tributaries. EPA plans to include in this proposed rulemaking a separate section containing additional stormwater provisions for the Chesapeake Bay Watershed.

Statement of Need:

Section 402(p) of the Clean Water Act requires EPA to regulate certain stormwater discharges. Stormwater is a primary contributor of water quality impairment. There is a need to strengthen the stormwater program's effectiveness by reducing pollutant loading from currently regulated and unregulated stormwater discharges and preserving surface water health and integrity. This action was informed by

the 2006 National Research Council report.

Summary of Legal Basis:

Section 402(p) of the Clean Water Act requires EPA to regulate certain discharges from stormwater in order to protect water quality.

Alternatives:

To be determined.

Anticipated Cost and Benefits:

To be determined.

Risks:

To be determined.

Timetable:

Action	Date	FR Cite
NPRM	09/00/11	
Final Action	12/00/12	
Notice—Public Meeting	To Be	Determined

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Federal, Local, State

Federalism:

Undetermined

Additional Information:

EPA Docket information: EPA-HQ-OW-2009-0817-0319

URL For More Information:

www.epa.gov/npdes/stormwater/rulemaking

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RIN: 2040–AF13

EPA

147. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT REGULATIONS FOR NEW DISCHARGERS AND THE APPROPRIATE USE OF OFFSETS WITH REGARD TO WATER QUALITY PERMITTING

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Legal Authority:

33 USC 1361; 33 USC 1311(b)(1)(C)

CFR Citation:

40 CFR 122.4(i)

Legal Deadline:

None

Abstract:

This rulemaking may consider how to best clarify EPA's approach to permitting new dischargers in order to ensure the protection of water quality under Clean Water Act section 301(b)(1)(C). The rulemaking may examine options to address the appropriate and permissible use of offsets, which ensures that NPDES permits are protective of water quality standards. The rulemaking may also examine options for addressing new dischargers in impaired waters, both when a TMDL is in place and prior to TMDL issuance.

Statement of Need:

The EPA is initiating a rulemaking to consider clarifying the EPA's interpretation of 40 CFR section 122.4(i) and addressing the adverse Ninth Circuit decision in Friends of Pinto Creek v. EPA (2007), which created uncertainty regarding the permitting of new dischargers. Through this rulemaking, EPA will consider how to best ensure that the requirements at 40 CFR 122.4(i) and/or related regulations pertaining to the permitting of new dischargers are consistent with Clean Water Act (CWA) requirements.

Summary of Legal Basis:

Clean Water Act (CWA) section 301(b)(1)(C) requires permits to include limitation as stringent as necessary to meet water quality standards. The Federal regulations at 40 CFR 122.4(i) implements that requirement for new dischargers.

Alternatives:

TBD

Anticipated Cost and Benefits:

TBD

Risks:

TBD

Timetable:

Action	Date	FR Cite
NPRM	04/00/11	
Final Action	01/00/12	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

Federalism:

Undetermined

Additional Information:

SAN No. 5240

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RIN: 2040–AF17

EPA

148. ● CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO) INFORMATION COLLECTION REQUEST RULE

Priority:

Other Significant

Legal Authority:

Not Yet Determined

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

Under the authority of section 308 of the CWA, EPA is proposing a rule to collect facility information from all Concentrated Animal Feeding Operations (CAFOs), which will

provide a CAFO inventory and assist in implementing the 2008 CAFO rule.

Statement of Need:

Under the authority of section 308 of the CWA, EPA is proposing a rule to collect facility information from all CAFOs, which will provide a CAFO inventory and assist in implementing the 2008 CAFO rule.

Summary of Legal Basis:

EPA is proposing a rule to collect facility information from all CAFOs under the authority of section 308 of the CWA.

Timetable:

Action	Date	FR Cite
NPRM	05/00/11	
Final Action	05/00/12	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Undetermined

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RIN: 2040–AF22

EPA

FINAL RULE STAGE

149. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR AREA SOURCES: INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL BOILERS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal governments and the private sector.

Legal Authority:

Clean Air Act sec 112

CFR Citation:

40 CFR 63

Legal Deadline:

NPRM, Judicial, May 7, 2010, 60–day extension granted on July 30, 2009. Additional 2–week extension was subsequently granted, and the signature date was April 29, 2010.

Final, Judicial, January 16, 2011, 30–day extension granted from December 16, 2010.

Abstract:

The Clean Air Act (CAA) requires that EPA develop standards for toxic air pollutants, also known as hazardous air pollutants or air toxics for certain categories of sources. These pollutants are known or suspected to cause cancer and other serious health and environmental effects. This regulatory action will develop emission standards for boilers located at area sources. An area source facility emits or has the potential to emit less than 10 tons per year (tpy) of any single air toxic or less than 25 tpy of any combination of air toxics. Boilers burn coal and other substances such as oil or biomass (e.g., wood) to produce steam or hot water, which is then used for energy or heat. Industrial boilers are used in manufacturing, processing, mining, refining, or any other industry. Commercial and institutional boilers are used in commercial establishments, medical centers, educational facilities and municipal buildings. The majority of area source boilers covered by this proposed rule are located at commercial and institutional facilities and are generally owned or operated by small entities. EPA estimates that there are approximately 183,000 existing area source boilers at 91,000 facilities in the United States and that approximately 6,800 new area source boilers will be installed over the next 3 years. The rule will cover boilers located at area source facilities that burn coal, oil, biomass, or secondary ''non-waste'' materials. Natural gas-fired area source boilers are not part of the categories to be regulated. The rule will reduce emissions of a number of toxic air pollutants including mercury, metals, and organic air toxics. The standards for area sources must be technology-based. Standards for area sources can be based on either generally available control technology (GACT), or maximum achievable control technology (MACT). To determine GACT, we look at methods, practices and techniques that are commercially available and appropriate for use by the sources in the category. We consider the economic impacts on sources in the category and the technical capabilities of the firms to operate and maintain the emissions control systems. MACT can be based on the emissions reductions achievable through application of measures, processes, methods, systems, or techniques, but must at least meet minimum control levels as defined in the Clean Air Act. Economic impacts cannot be considered when determining those minimum control levels.

Statement of Need:

Section 112(c)(3) of the CAA requires EPA to develop rules to reduce specific air toxics emissions (30 urban toxic pollutants) that have been identified as posing the greatest threat to public health in the largest number of urban areas as a result of emissions from certain categories of area sources. Industrial boilers and institutional/commercial boilers are listed as two of the area source categories for regulation. In addition, both industrial boilers and commercial/institutional boilers are on the list of CAA 112(c)(6) source categories which requires that those categories be subject to MACT regulation for specific air toxics. These two categories were included on the list because of emissions of mercury and polycyclic organic matter (POM).

Summary of Legal Basis:

Clean Air Act, section 112.

Alternatives:

Not yet determined.

Anticipated Cost and Benefits:

EPA estimates the total nationwide capital cost for the rulemaking for existing and new boilers, as proposed, to be approximately $2.5 billion, with an annualized cost of 1 billion. The annual cost includes control device operation and maintenance and annual boiler tuneups, as well as monitoring, recordkeeping, reporting, and performance testing. EPA estimates that the proposal would reduce nationwide emissions from existing and new area source boilers by approximately 1,500 tons per year (tpy) of total air toxics,

1,500 pounds per year of mercury, 250 tpy of non-mercury metals, 9 tpy of POM, and 7,600 tpy of PM. These emissions reductions will lead to significant annual health benefits. In 2013, this rule will protect public health by avoiding: 110 to 300 premature deaths, 81 cases of chronic bronchitis, 190 nonfatal heart attacks, 169 hospital and emergency room visits, 190 cases of acute bronchitis, 16,000 days when people miss work, 2,100 cases of aggravated asthma, and 95,000 acute respiratory symptoms. The monetized benefits of this proposed regulatory action are estimated to range from $1 billion to $2.4 billion and $900 million to $2.2 billion, at 3 percent and 7 percent discount rates, respectively.

Risks:

Not yet determined.

Timetable:

Action	Date	FR Cite
NPRM	06/04/10	75 FR 31895
NPRM Extension of Comment Period	06/09/10	75 FR 32682
NPRM Comment Period End	07/19/10	
NPRM Comment Period Extended To	08/03/10	
Final Action	01/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

Federal, Local, State, Tribal

Federalism:

This action may have federalism implications as defined in EO 13132.

Additional Information:

EPA publication information: NPRM - http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480afbb98; Related to RIN 2060-AQ25.; EPA Docket information: EPA-HQ-OAR-2006-0790

Sectors Affected:

611 Educational Services; 62 Health Care and Social Assistance; 44-45 Retail Trade; 321 Wood Product Manufacturing

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Related RIN: Related to 2060–AQ25

RIN: 2060–AM44

EPA

150. TRANSPORT RULE (CAIR REPLACEMENT RULE)

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

42 USC 7401 et seq

CFR Citation:

40 CFR 51, 52, 72, 78, 97

Legal Deadline:

None

Abstract:

On May 12, 2005, the Environmental Protection Agency (EPA) promulgated the Clean Air Interstate Rule, commonly known as CAIR (70 FR 25162). The CAIR used a cap and trade approach to reduce sulfur dioxide (SO2) and nitrogen oxides (NOx) emissions. On July 11, 2008, the D.C. Circuit issued an opinion finding parts of the CAIR unlawful and vacating the rule. On December 23, the D.C. Circuit issued a decision on the petitions for rehearing of the July 11 decision. The court granted EPA's petition for rehearing to the extent that it remanded the cases without vacatur of the CAIR. This ruling means that the CAIR remains in place temporarily but that EPA is obligated to promulgate another rule under Clean Air Act section 110(a)(2)(D) consistent with the court's July 11 opinion. This action would fulfill our obligation to develop a rule consistent with the July 11, 2008, and December 23, 2008, D.C. Court decisions.

Statement of Need:

The Clean Air Transport Rule is necessary to help States address interstate transport of pollutants from upwind States to downwind nonattainment areas. Specifically, the rule is needed to respond to the remand of the Clean Air Interstate Rule by the U.S. Court of Appeals for the D.C. Circuit.

Summary of Legal Basis:

The Clean Air Transport Rule is needed to help States address the requirements of section 110(a)(2)(D)(i) of the Clean Air Act. This section requires States to prohibit emissions that contribute significantly to downwind nonattainment with the national ambient air quality standards or which interfere with maintaining the standards in those downwind States.

Alternatives:

To be determined.

Anticipated Cost and Benefits:

The proposed rule would yield more than $120 to $290 billion in annual benefits in 2014. This far outweighs the estimated annual costs of $2.8 billion for that year. Both the annual benefits and costs are in 2006 dollars. The emission reductions from this proposed rule would lead to significant annual health benefits. In 2014, this rule would protect public health by avoiding: 14,000 to 36,000 premature deaths, 21,000 cases of acute bronchitis, 23,000 nonfatal heart attacks, 26,000 hospital and emergency room visits, 1.9 million days when people miss work or school, 240,000 cases of aggravated asthma, and 440,000 upper and lower respiratory symptoms. Air quality improvements would lead to increased visibility in national and State parks, and increased protection for sensitive ecosystems including, Adirondack and Appalachian lakes, coastal waters and estuaries, and sugar maple forests.

Risks:

To be determined.

Timetable:

Action	Date	FR Cite
NPRM	08/02/10	75 FR 45210
NODA	09/01/10	75 FR 53613
NPRM Correcting Amendments	09/14/10	75 FR 55711
NPRM Comment Period End	10/01/10	
Final Action	07/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

Federal, Local, State

Energy Effects:

Statement of Energy Effects planned as required by Executive Order 13211.

International Impacts:

This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information:

EPA publication information: NPRM - http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480b25be1; EPA Docket information: EPA-HQ-OAR-2009-0491

Sectors Affected:

221112 Fossil Fuel Electric Power Generation

URL For More Information:

www.epa.gov/airtransport

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RIN: 2060–AP50

EPA

151. REVISION TO PB AMBIENT AIR MONITORING REQUIREMENTS

Priority:

Other Significant

Legal Authority:

42 USC 7403, 7410, 7601(a), 7611, and 7619

CFR Citation:

40 CFR 58

Legal Deadline:

None

Abstract:

On November 12, 2008, the Environmental Protection Agency (EPA) revised the National Ambient Air Quality Standards (NAAQS) for lead (Pb) and associated monitoring requirements. The finalized monitoring requirements require State and local monitoring agencies to conduct Pb monitoring near Pb sources emitting 1.0 tons per year (tpy) or more and in large urban areas referred to as Core Based Statistical Areas (CBSA) with a population of 500,000 people or more. In January 2009, EPA received a petition from the Missouri Coalition for the Environment Foundation, Natural Resources Defense Council, the Coalition to End Childhood Poisoning, and Physicians for Social Responsibility requesting EPA reconsider the 1.0 tpy emission threshold. EPA granted the petition to reconsider on July 22, 2009. This action represents the results of the EPA's reconsideration of the Pb monitoring requirements.

A proposed revision was published on December 30, 2009, in which the EPA proposed to lower the emission threshold to 0.50 tpy, and to require Pb monitoring at the approximately 80 NCore sites instead of monitoring Pb in CBSA's with a population greater than 500,000. The EPA also requested comments on an emission threshold greater than 0.50 tpy, alternative approaches for monitoring Pb near airports, and on staggering the monitoring deployment over two years.

Statement of Need:

This action is in response to a petition to reconsider that the Agency received and granted on the Pb monitoring requirements contained in the revision to the Pb NAAQS (73 FR 66964).

Summary of Legal Basis:

Clean Air Act title I

Alternatives:

To be determined.

Anticipated Cost and Benefits:

To be determined.

Risks:

To be determined.

Timetable:

Action	Date	FR Cite
NPRM	12/30/09	74 FR 69050
NPRM Comment Period End	02/16/10	
Final Action	01/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal, Local, State

Additional Information:

EPA publication information: NPRM - http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480a74184; EPA Docket information: EPA-HQ-OAR-2006-0735

Sectors Affected:

9241 Administration of Environmental Quality Programs

URL For More Information:

http://www.epa.gov/air/lead

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RIN: 2060–AP77

EPA

152. RECONSIDERATION OF THE 2008 OZONE PRIMARY AND SECONDARY NATIONAL AMBIENT AIR QUALITY STANDARDS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

42 USC 7409

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

On March 12, 2008, EPA announced the final decision on the ozone national ambient air quality standards (NAAQS). Soon after that decision was signed on March 27, 2008 (73 FR 16436), the

Clean Air Scientific Advisory Committee (CASAC) held an unsolicited public meeting and criticized EPA for setting primary and secondary standards that were not consistent with advice provided by the CASAC during review of the NAAQS. On July 25, 2008, several environmental and industry petitioners, as well as a number of States, sued EPA on the NAAQS decision, and the Court set a briefing schedule for the consolidated cases on December 23, 2008. On March 10, 2009, EPA requested that the Court vacate the briefing schedule and hold the consolidated cases in abeyance for 180 days. This request for extension was made to allow time for appropriate EPA officials appointed by the new Administration to determine whether the standards established in March 2008 should be maintained, modified, or otherwise reconsidered. Announcement of reconsideration of the March 2008 NAAQS decision occurred on September 16, 2009. The NAAQS proposal (including a proposal to stay implementation designations for the March 2008 NAAQS) was signed on January 6, 2010, with the final rule to be signed on or around October 2010. Reconsideration of the NAAQS will be limited to information and supporting documentation available to EPA and in the docket at the time of the March 2008 decision.

Statement of Need:

As established in the Clean Air Act, the national ambient air quality standards for ozone are to be reviewed every 5 years. As outlined in the abstract of this regulatory plan entry, this reconsideration is in response to actions by the courts regarding the last review in 2008.

Summary of Legal Basis:

Section 109 of the Clean Air Act (42 U.S.C. 7409) directs the Administrator to propose and promulgate ''primary'' and ''secondary'' national ambient air quality standards for pollutants identified under section 108 (the ''criteria'' pollutants). The ''primary'' standards are established for the protection of public health, while ''secondary'' standards are to protect against public welfare.

Alternatives:

The main alternatives for the Administrator's decision are whether to set different primary and secondary ozone standards than those set in 2008.

Anticipated Cost and Benefits:

A supplement to the RIA was prepared that presents the costs and benefits associated with the proposed revised ozone standards. This RIA was made available when the Notice of Proposed Rulemaking was published.

Risks:

The current national ambient air quality standards for ozone are intended to protect against public health risks associated with morbidity and/or premature mortality and public welfare risks associated with adverse vegetation and ecosystem effects. During the course of this review, risk assessments will be conducted to evaluate health and welfare risks associated with retention or revision of the ozone standards.

Timetable:

Action	Date	FR Cite
NPRM	01/19/10	75 FR 2938
NPRM Comment Period End	03/22/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, Local, State, Tribal

Additional Information:

EPA publication information: NPRM - http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480a7f618; Related to RIN 2060-AN24; EPA Docket information: EPA-HQ-OAR-2005-0172

URL For More Information:

http://www.epa.gov/air/criteria.html

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Related RIN: Related to 2060–AN24

RIN: 2060–AP98

EPA

153. REVISIONS TO MOTOR VEHICLE FUEL ECONOMY LABEL

Priority:

Other Significant

Unfunded Mandates:

Undetermined

Legal Authority:

Clean Air Act

CFR Citation:

40 CFR 85, 86, 600; 49 CFR 575

Legal Deadline:

None

Abstract:

EPA is responsible for developing the fuel economy labels that are posted on window stickers of all new light duty cars and trucks sold in the U.S. and, beginning with the 2011 model year, on all new medium-duty passenger vehicles (a category that includes large sport-utility vehicles and passenger vans). In 2006, EPA updated how the city and highway fuel economy values are calculated, to better reflect typical real-world driving patterns and provide more realistic fuel economy estimates. Since then, increasing market penetration of advanced technology vehicles, in particular plug-in hybrid electric vehicles and electric vehicles, will require new metrics to effectively convey information to consumers. This action will amend the way in which fuel economy estimates are calculated and/or displayed. The changes in this action will not impact the Corporate Average Fuel Economy requirements.

Statement of Need:

The Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA) have recently jointly proposed to redesign and add information to the current fuel economy label that is posted on the window sticker of all new cars and light-duty trucks sold in the U.S. The redesigned label will provide new information to American consumers about the fuel economy and consumption, fuel costs, and environmental impacts associated with purchasing new vehicles beginning with model year 2012 cars and trucks. This action will also develop new labels for certain advanced technology vehicles, which are poised to enter the U.S. market, in particular plug-in hybrid electric vehicles and electric vehicles.

NHTSA and EPA are proposing these changes because the Energy Independence and Security Act (EISA) of 2007 imposes several new labeling requirements, because the labels for conventional vehicles can be improved to help consumers make more informed vehicle purchase decisions, and because the time is right to develop new labels for advanced technology vehicles that are being commercialized.

Summary of Legal Basis:

Both EPA and NHTSA have authority over labeling requirements related to fuel economy and environmental information under the Energy Policy and Conservation Act (EPCA) and the Energy Independence and Security Act (EISA), respectively. In order to implement that authority in the most coordinated and efficient way, the agencies have jointly proposed to revise the Fuel Economy label.

Alternatives:

The rulemaking proposal includes an alternative label that is being considered in addition to the Agency's primary proposal.

Anticipated Cost and Benefits:

The primary costs associated with this proposed rule come from revisions to the fuel economy label and codifying testing requirements for EVs and PHEVs. This rule is not economically significant under E.O. 12866 or any DOT or EPA policies and procedures because it does not exceed $100 million or meet other related standards. The primary benefits associated with this proposed rule come from any improvements in consumer decisionmaking that may lead to reduced vehicle and fuel costs for them. There may be additional effects on criteria pollutants and greenhouse gas emissions. At this time, EPA and NHTSA do not believe it is feasible to fully develop a complete benefits analysis of the potential benefits.

Risks:

The failure to finalize updated conventional vehicle fuel economy labels and to create new labels for EVs and PHEVs will result in labels that are unhelpful and potentially misleading for consumers as they seek to select more energy efficient and environmentally friendly vehicles that meet their needs.

Timetable:

Action	Date	FR Cite
NPRM	09/23/10	75 FR 58078
Notice—Public Meeting	09/28/10	75 FR 59673
NPRM Comment Period End	11/22/10	
Final Action	02/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

Additional Information:

EPA Docket information: EPA-HQ-OAR-2009-0865

URL For More Information:

http://www.epa.gov/fueleconomy/regulations.htm

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RIN: 2060–AQ09

EPA

154. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR MAJOR SOURCES: INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL BOILERS AND PROCESS HEATERS

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect State, local or tribal governments and the private sector.

Legal Authority:

Clean Air Act sec 112

CFR Citation:

40 CFR 63

Legal Deadline:

NPRM, Judicial, April 29, 2010, 60–day extension granted on June 30, 2009. An additional 2 weeks was subsequently granted. Signature date: April 29, 2010.

Final, Judicial, January 16, 2011, 30–day extension granted from December 16, 2011.

Abstract:

Section 112 of the Clean Air Act (CAA) outlines the statutory requirements for EPA's stationary source air toxics program. Section 112 mandates that EPA develop standards for hazardous air pollutants (HAP) for both major and area sources listed under section 112(c). This regulatory action will finalize emission standards for boilers and process heaters located at major sources. Section 112(d)(2) requires that emission standards for major sources be based on the maximum achievable control technology (MACT). Industrial boilers and institutional/commercial boilers are on the list of section 112(c)(6) source categories. In this rulemaking, EPA will finalize standards for these source categories.

Statement of Need:

As a result of the vacatur of the Industrial Boiler MACT, the Agency will develop another rulemaking under CAA section 112 which will reduce hazardous air pollutant (HAP) emissions from this source category. Recent court decisions on other CAA section 112 rules will be considered in developing this regulation.

Summary of Legal Basis:

Clean Air Act, section 112.

Alternatives:

Not yet determined.

Anticipated Cost and Benefits:

EPA estimates the total national capital cost for the final rule to be approximately $9.5 billion in the year 2013, with a total national annual cost of $2.9 billion in the year 2013. The annual cost, which considers fuel savings, includes control device operation and maintenance as well as monitoring, recordkeeping, reporting, and performance testing. EPA estimates that implementation of the rulemaking, as proposed, would reduce nationwide emissions from major source boilers and process heaters by: 15,000 pounds per year of mercury, 3,200 tpy of non-mercury metals, 37,000 tpy of HCl, 50,000 tpy of PM, 340,000 tpy of SO2, 722 grams per year of dioxin and 1,800 tpy of volatile organic compounds. These emissions reductions would lead to the following annual health benefits. In 2013, this rule will protect public health by avoiding 1,900 to 4,800 premature deaths, 1,300 cases of chronic bronchitis, 3,000 nonfatal heart attacks, 3,200 hospital and emergency room visits, 3,000 cases of acute bronchitis, 250,000 days when people miss work, 33,000 cases of aggravated asthma, and 1,500,000 acute respiratory symptoms. The monetized value of the benefits ranges from $17 billion to $41 billion in 2013—outweighing the costs by at least $14 billion.

Risks:

Not yet determined.

Timetable:

Action	Date	FR Cite
NPRM	06/04/10	75 FR 32006
NPRM Extension of Comment Period	06/09/10	75 FR 32682
NPRM Comment Period End	07/19/10	
NPRM Comment Period Extended To	08/03/10	
Final Action	06/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

Federal, Local, State, Tribal

Federalism:

This action may have federalism implications as defined in EO 13132.

Additional Information:

EPA publication information: NPRM - http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480afbb49; Split from RIN 2060-AM44. This rulemaking combines the area source rulemaking for boilers and the rulemaking for re-establishing the vacated NESHAP for boilers and process heaters.; EPA Docket information: EPA-HQ-OAR-2002-0058

Sectors Affected:

325 Chemical Manufacturing; 611 Educational Services; 322 Paper Manufacturing; 221 Utilities; 321 Wood Product Manufacturing

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Related RIN: Related to 2060–AM44

RIN: 2060–AQ25

EPA

155. LEAD; CLEARANCE AND CLEARANCE TESTING REQUIREMENTS FOR THE RENOVATION, REPAIR, AND PAINTING PROGRAM

Priority:

Economically Significant. Major under 5 USC 801.

Unfunded Mandates:

This action may affect the private sector under PL 104-4.

Legal Authority:

15 USC 2601(c); 15 USC 2682(c)(3); 15 USC 2684; 15 USC 2686; 15 USC 2687

CFR Citation:

40 CFR 745

Legal Deadline:

NPRM, Judicial, April 22, 2010, Signature.

Final, Judicial, July 15, 2011, Signature.

Abstract:

On May 6, 2010, EPA proposed several revisions to the 2008 Lead Renovation, Repair, and Painting Program (RRP) rule that established accreditation, training, certification, and recordkeeping requirements, as well as work practice standards for persons performing renovations for compensation in most pre-1978 housing and child-occupied facilities. Current requirements include training renovators, other renovation workers, and dust sampling technicians; for certifying renovators, dust sampling technicians, and renovation firms; for accrediting providers of renovation and dust sampling technician training; for renovation work practices; and for recordkeeping. EPA is particularly concerned about dust lead hazards generated by renovations because of the well documented toxicity of lead, especially to younger children. This proposal includes additional requirements designed to ensure that lead-based paint hazards generated by renovation work are adequately cleaned after renovation work is finished and before the work areas are re-occupied. Specifically, EPA proposed to require dust wipe testing after many renovations covered by the RRP rule. For a subset of jobs involving demolition or removal of plaster through destructive means or the disturbance of paint using machines designed to remove paint through high-speed operation, such as power sanders or abrasive blasters, this proposal would also require the renovation firm to demonstrate, through dust wipe testing, that dust-lead levels remaining in the work area are below regulatory levels.

Statement of Need:

EPA is particularly concerned about dust lead hazards generated by renovations because children, especially younger children, are at risk for high exposures of lead-based paint dust via hand-to-mouth exposure. This rulemaking revision is being considered in response to a settlement agreement.

Summary of Legal Basis:

Section 402(c)(3) of the Toxic Substances Control Act (TSCA) requires EPA to regulate renovation or remodeling activities that create lead-based paint hazards in target housing, which is defined by statute to cover most pre-1978 housing, public buildings built before 1978, and commercial buildings. The work practice requirements for dust wipe testing and clearance, training, certification and accreditation requirements, and State, territorial, and tribal authorization provisions are being

promulgated under the authority of TSCA sections 402(c)(3), 404, and 407 (15 U.S.C. 2682(c)(3), 2684, and 2687).

Alternatives:

In addition to the proposed rule option, the Economic Analysis for the proposed rule analyzes several alternative options, including options with lower and higher thresholds (in terms of the amount of lead-based paint disturbed) for renovations that require dust wipe testing or clearance. See also the discussion in the preamble to the proposed rule at page 25058 et seq.

Anticipated Cost and Benefits:

Benefits. The proposed rule is estimated to generate benefits by providing greater assurance that dust-lead hazards created by renovations are adequately cleaned up, primarily by requiring renovation firms to provide building owners and occupants with information on dust lead levels remaining in the work area after many renovation projects, but also by requiring renovation firms to demonstrate that they have achieved regulatory clearance levels after some of the dustiest renovations. These changes will protect individuals residing in target housing or attending a child-occupied facility where these renovation events are performed. It will also protect individuals who move into target housing after such a renovation is performed, or who visit a friend, relative, or caregiver's house where such a renovation is performed. EPA has estimated the number of individuals residing in target housing units or attending COFs where renovation events are performed. The proposed rule will benefit 809,000 children under the age of 6 and 7,547,000 individuals age 6 and older (including 96,000 pregnant women) per year by minimizing their exposure to lead dust generated by renovations. The low threshold option would protect 882,000 children under the age of 6 and 8,193,000 individuals age 6 and older, including 105,000 pregnant women. The high threshold option protects 706,000 children and 6,590,000 individuals age 6 and older, including 83,000 pregnant women. The remaining three alternative options (dust wipe testing only, clearance only, and third party dust wipe testing) would affect the same number of individuals as the proposed rule, although the amount of protection provided to some of those individuals may differ from the proposed rule.

Costs. Total annualized costs for the proposed rule are $272 million per year using a 3 percent discount rate and $293 million per year using a 7 percent discount rate. Under the low threshold option, costs are $312 million per year with a 3 percent discount rate and $336 million per year with a 7 percent rate. Under the high threshold option, costs are $224 million per year with a 3 percent discount rate and $242 million per year with a 7 percent discount rate. The option that only requires dust wipe testing costs $268 million per year with a 3 percent discount rate and $288 million per year with a 7 percent discount rate. The option requiring clearance for all renovations covered by the proposed rule costs $367 million with a 3 percent discount rate and $394 million with a 7 percent discount rate. The option requiring the use of a third-party for dust wipe sampling costs $431 million per year with a 3 percent discount rate and $459 million per year with a 7 percent discount rate. These cost estimates are based on the assumption that improved lead test kits would be available.

Risks:

Lead is known for its ''broad array of deleterious effects on multiple organ systems via widely diverse mechanisms of action.'' (EPA Air Quality Criteria for Lead, October 2006). This array of health effects includes heme biosynthesis and related functions; neurological development and function; reproduction and physical development; kidney function; cardiovascular function; and immune function. There is also some evidence of lead carcinogenicity, primarily from animal studies, together with limited human evidence of suggestive associations. Of particular interest to EPA during the RRP rulemaking was the delineation of lowest observed effect levels for those lead-induced effects that are most clearly associated with blood lead levels of less than 10 micrograms per deciliter in children and adults. See also the discussion in the preamble to the proposed rule at page 25039 et seq.

Timetable:

Action	Date	FR Cite
NPRM	05/06/10	75 FR 25038
NPRM Comment Period End	07/06/10	
NPRM Extension of Comment Period	07/07/10	75 FR 38959
NPRM Comment Period Extended To	08/06/10	
Final Action	07/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal, Local, State, Tribal

Additional Information:

EPA publication information: NPRM - http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480ae7efa; EPA Docket information: EPA-HQ-OPPT-2005-0049

URL For More Information:

http://www.epa.gov/lead/pubs/renovation.htm

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EPA

156. IDENTIFICATION OF NON–HAZARDOUS SECONDARY MATERIALS THAT ARE SOLID WASTES

Priority:

Other Significant

Legal Authority:

42 USC 6903(27); 42 USC 6912(a)(1)

CFR Citation:

40 CFR 241

Legal Deadline:

NPRM, Judicial, April 29, 2010.

Final, Judicial, January 16, 2011.

Abstract:

The Agency has proposed to define which non-hazardous secondary materials burned in combustion units are solid wastes under the Resource Conservation and Recovery Act (RCRA).

This in turn will assist the Agency in determining which non-hazardous secondary materials will be subject to the emissions standards proposed under sections 112 and 129 of the Clean Air Act (CAA). If the secondary material is considered a ''solid waste,'' the unit that burns the non-hazardous secondary material would be subject to the CAA section 129 requirements. The meaning of ''solid waste'' as defined under RCRA is important because CAA section 129, which regulates emissions from sources that combust solid wastes, states that the term ''solid waste'' shall have the meaning ''established by the Administrator [pursuant to RCRA].''

Statement of Need:

EPA is preparing to establish new emission standards under CAA sections 112 and 129. In order to establish these new emission standards, EPA must determine at the federal level which non-hazardous secondary materials are considered ''solid waste.'' The meaning of solid waste for purposes of these CAA standards is of particular importance since CAA section 129 states that the term ''solid waste'' shall have the meaning ''established by the Administrator.''

Summary of Legal Basis:

EPA is promulgating this regulation under the authority of sections 2002(a)(1) and 1004(27) of RCRA, as amended, 42 U.S.C. 6912(a)(1) and 6903(27). Section 129(a)(1(D) of the CAA directs EPA to establish standards for Commercial and Industrial Solid Waste Incinerators (CISWI), which burn solid waste (CAA sec. 129(g)(6), 42 U.S.C. 7429). Section 129(g)(6) provides that the term, solid waste, is to be established by EPA under RCRA. Section 2002(a)(1) of RCRA authorizes the Agency to promulgate regulations as are necessary to carry out the functions under the Act. The statutory definition of ''solid waste'' is provided in RCRA section 1004(27).

Alternatives:

The Notice of Proposed Rulemaking (NPRM) proposes an ''Alternative Approach'' that is broader than the proposed solid waste definition. This alternative may be adopted in the final rule, if warranted by information presented during the public comment period or otherwise available in the rulemaking record. Under this alternative, most non-hazardous secondary materials that are burned in a combustion unit would be considered solid wastes. Only fuels or ingredients that are combusted and remain within the control of the generator and met the legitimacy criteria would not be solid wastes under this alternative. This approach would not allow discarded materials processed into new product fuels to be considered as non-wastes, or allow for a petition process. This approach would expand the universe of non-hazardous secondary materials that would be considered to be solid wastes, and thus subject to CAA section 129. The proposed rule also takes comment on an approach that would classify all non-hazardous secondary materials that are burned in combustion units as solid wastes.

Anticipated Cost and Benefits:

The proposed rule specifies criteria under which non-hazardous secondary materials are considered solid wastes. Although the final rule will determine which section of the CAA under which a given combustion unit is regulated, this rule itself will not include any emission standards and will not require changes in the management or use of secondary materials. Only with the promulgation of the respective rules developed within EPA's Office of Air and Radiation (OAR) would society realize the costs, benefits, and other impacts. These impacts, therefore, are attributed entirely to the rules being developed by OAR.

Risks:

Air emission risks will be reduced as a result of the current promulgation of three-related rules developed by OAR and this rule. However, material diversion risks may increase under certain limited scenarios.

Timetable:

Action	Date	FR Cite
ANPRM	01/02/09	74 FR 41
ANPRM Comment Period End	02/02/09	
NPRM	06/04/10	75 FR 31843
NPRM Extension of Comment Period	06/09/10	75 FR 32682
NPRM Comment Period End	07/19/10	
NPRM Comment Period Extended To	08/03/10	
Final Action	01/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal, Local, State, Tribal

Additional Information:

EPA publication information: ANPRM - http://www.regulations.gov/search/Regs/home.html#documentDetail?R=090000648080b3d3; NPRM - http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480afbb78, NPRM - Extension of Comment Period - http://www.regulations.gov/search/Regs/home.html#documentDetail? For information on the proposed CAA emissions standards for boilers, process heaters, and commercial/industrial solid waste incinerators, see http://www.epa.gov/airquality/combustion/; EPA Docket information: EPA-HQ-RCRA-2008-0329

URL For More Information:

http://www.epa.gov/epawaste/nonhaz/define/index.htm

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Statement of Regulatory Priorities

The mission of the Equal Employment Opportunity Commission (EEOC, Commission, or agency) is to ensure equality of opportunity in employment by vigorously enforcing seven Federal statutes. These statutes are: Title VII of the Civil Rights Act of 1964, as amended (prohibits employment discrimination on the basis of race, color, sex, religion, or national origin); the Equal Pay Act of 1963, as amended (makes it illegal to pay unequal wages to men and women performing substantially equal work at the same establishment, unless the difference is attributable to a bona fide seniority, merit, or incentive system, or to a factor other than sex); the Age Discrimination in Employment Act of 1967 (ADEA) as amended (prohibits employment discrimination based on age of 40 or older); Titles I and V of the Americans with Disabilities Act, as amended, and sections 501 and 505 of the Rehabilitation Act, as amended (prohibit employment discrimination based on disability); Title II of the Genetic Information Nondiscrimination Act (GINA) (prohibits employment discrimination based on genetic information and limits acquisition and disclosure of genetic information); and section 304 of the Government Employee Rights Act of 1991 (protects certain previously exempt state & local government employees from employment discrimination on the basis of race, color, religion, sex, national origin, age, or disability).

The first item in this regulatory plan is entitled ''Genetic Information Nondiscrimination Act.'' GINA was signed into law on May 21, 2008. Congress enacted GINA in recognition of many achievements in the field of genetics, the decoding of the human genome, and the creation and increased use of genomic medicine. Many genetic tests now exist that can inform individuals whether they may be at risk for developing a specific disease or disorder. GINA was enacted to address public concerns regarding the potential for misuse of genetic information.

Title II of GINA protects job applicants, current and former employees, labor union members, and apprentices and trainees from discrimination based on their genetic information. GINA prohibits use of genetic information in employment, whether acquired through genetic testing or from an individual's family medical history, and limits acquisition and disclosure of such information. It requires that, when genetic information is acquired, it be maintained in a confidential medical file, separate and apart from personnel information.

The second item in this regulatory plan is entitled ''Regulations To Implement the Equal Employment Provisions of the Americans With Disabilities Act Amendments Act.'' The Americans with Disabilities Act Amendments Act of 2008 (''the Amendments Act'' or ''the Act'') was signed into law on September 25, 2008, with a statutory effective date of January 1, 2009. The Act makes important changes to the definition of the term ''disability'' by rejecting the holdings in several Supreme Court decisions and portions of EEOC's ADA regulations. The Act retains the ADA's basic definition of ''disability'' as an impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment. However, it changes the way that these statutory terms should be interpreted in several ways. The effect of these changes is to make it easier for an individual seeking protection under the ADA to establish that he or she has a disability within the meaning of the ADA.

Consistent with section 4(c) of Executive Order 12866, this statement was reviewed and approved by the Chair of the Agency. The statement has not been reviewed or approved by the other members of the Commission.

EEOC

FINAL RULE STAGE

157. REGULATIONS TO IMPLEMENT THE EQUAL EMPLOYMENT PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT

Priority:

Other Significant

Legal Authority:

42 USC sec 12116 and sec 506 as redesignated under the ADA Amendments Act of 2008

CFR Citation:

29 CFR 1630

Legal Deadline:

None

Abstract:

The Americans With Disabilities Act Amendments Act of 2008 (''the Amendments Act'') was signed into law on September 25, 2008, with a statutory effective date of January 1, 2009. EEOC proposes to revise its Americans With Disabilities Act (ADA) regulations and accompanying interpretative guidance (29 CFR part 1630 and accompanying appendix) in order to implement the ADA Amendments Act of 2008. Pursuant to the 2008 amendments, the definition of disability under the ADA shall be construed in favor of broad coverage to the maximum extent permitted by the terms of the ADA, and the determination of whether an individual has a disability should not demand extensive analysis. The Amendments Act rejects the holdings in several Supreme Court decisions and portions of EEOC's ADA regulations. The effect of these changes is to make it easier for an individual seeking protection under the ADA to establish that he or she has a disability within the meaning of the ADA.

Statement of Need:

This regulation is necessary to bring the Commission's regulations into compliance with the ADA Amendments Act of 2008, which became effective January 1, 2009, and explicitly invalidated certain provisions of the existing regulations. The Amendments Act retains the terminology of the ADA's basic definition of ''disability'' as an impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment. However, it changes the way that these statutory terms should be interpreted in several ways, therefore necessitating revision of the existing regulations and interpretive guidance contained in the accompanying ''Appendix to Part 1630—Interpretive Guidance on Title I of the Americans With Disabilities Act,'' which are published at 29 CFR part 1630. The proposed revisions to the title I regulations and appendix are intended to enhance predictability and consistency between judicial interpretations and executive enforcement of the ADA as now amended by Congress.

Summary of Legal Basis:

Section 506 of the Amendments Act, 42 U.S.C. section 12205a, gives the EEOC the authority to issue regulations implementing the definitions of disability in section 12102 of this title (including rules of construction) and

the definitions in section 12103 of this title, consistent with the ADA Amendments Act of 2008.

Alternatives:

None: Congress mandated issuance of regulations.

Anticipated Cost and Benefits:

The EEOC anticipates economic and other benefits from the rule in many areas. For example, applicants and employees will be entitled to reasonable accommodation absent undue hardship to perform jobs for which they are qualified, whereas they may have been deemed not to meet the ADA's definition of disability prior to the Amendments Act and denied accommodations as a result. Also, employers will incur benefits from their ability to retain, hire, and promote qualified personnel; increased employee attendance and productivity; avoidance of costs associated with under-performance, workplace injury, and turnover; and benefits from savings in workers' compensation and related insurance. Finally, definitional clarity brought by the amended regulation will have the economic benefit of reducing litigation and the need for costly experts to address ''disability,'' and will streamline the issues requiring judicial attention. To the extent that employers may in some cases need to revise internal policies and procedures to reflect the broader definition of disability under the Amendments Act and train personnel to ensure appropriate compliance with the revised regulation, the Commission will continue to provide free technical assistance and outreach, including presentations and materials targeted specifically to small employers. Costs would be incurred by employers with 15 or more employees that are covered by the ADA. Applying the broader Amendments Act interpretation of when an impairment ''substantially limits'' a major life activity, more applicants and employees will meet the definition of disability and thus be potentially entitled to reasonable accommodations that do not pose an undue hardship. Available cost data is limited. However, using research indicating that the average cost of an accommodation is $462, the NPRM estimated the additional cost of accommodations as a result of the Amendments Act and the EEOC regulations at $74 million. Assuming these requests occur over 5 years, since it is reasonable to assume that not all new requests will occur in the same year, the annual estimated cost would be $15 million. The NPRM noted that it is possible that these estimates are at least twice as great as the actual costs would be, given research indicating that prior to the Amendments Act, fewer than half of the accommodation requests were granted. It is also important to note that both government-sponsored and private studies have repeatedly found that more than 50 percent of accommodations have zero costs for employers, both large and small.

Risks:

The proposed rule imposes no new or additional risk to employers. The proposal does not address risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/23/09	74 FR 48431
NPRM Comment Period End	11/23/09	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

Businesses, Governmental Jurisdictions, Organizations

Government Levels Affected:

Federal, Local, State, Tribal

Additional Information:

The EEOC plans to issue a final rule by the end of December, 2010, subject to expedited E.O. 12866 review by OMB/OIRA.

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FINANCIAL STABILITY OVERSIGHT COUNCIL (FSOC)

Statement of Regulatory Priorities

Title I, subtitle A, of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank'' or ''Act'') established the Financial Stability Oversight Council (FSOC). The purpose of the FSOC is to identify risks to the financial stability of the United States that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected bank holding companies or nonbank financial companies. In addition, the Council is responsible for promoting market discipline and responding to emerging risks to the stability of the United States financial system. The duties of the FSOC are set forth in section 112(a)(2) of the Dodd-Frank Act. The FSOC consists of ten voting members and five non-voting members, who serve in an advisory capacity. The Secretary of the Treasury serves as Chairperson.

Dodd-Frank provides the FSOC with authority to issue certain regulations to carry out the business of the Council and for certain other purposes. In fiscal year 2011, the FSOC has issued an advance notice of proposed rulemaking (ANPRM) regarding authority to require supervision and regulation of certain nonbank financial companies. This ANPRM is an initial step in the process by which the Council intends to develop a robust and disciplined framework for the designation of nonbank financial companies for heightened supervision.

Over the next several months, the FSOC and its members will continue efforts to issue regulations, policies, and guidance mandated by the Act and to take other actions necessary to effectively carry out the Act.

BILLING CODE 4810–25–S

GENERAL SERVICES ADMINISTRATION (GSA)

I. Mission and Overview

GSA oversees the business of the Federal Government. GSA's acquisition solutions supplies Federal purchasers with cost-effective, high-quality products and services from commercial vendors. GSA provides workplaces for Federal employees and oversees the preservation of historic Federal properties. GSA helps keep the Nation safe by providing tools, equipment, and non-tactical vehicles to the U.S. military, and providing State and local governments with law enforcement equipment, firefighting and rescue equipment, and disaster recovery products and services.

GSA serves the public by delivering services directly to its Federal customers through the Federal Acquisition Service (FAS), the Public Buildings Service (PBS), and the Office of Governmentwide Policy (OGP). GSA has a continuing commitment to its Federal customers and the U.S. taxpayers by providing those services in the most cost-effective manner possible.

Federal Acquisition Service (FAS)

FAS is the lead organization for procurement of products and services (other than real property) for the Federal Government. The FAS leverages the buying power of the Government by consolidating Federal agencies requirements for common goods and services. FAS provides a range of high-quality and flexible acquisition services that increase overall Government effectiveness and efficiency. FAS business operations are organized into four business portfolios based on the product or service provided to customer agencies: Integrated Technology Services (ITS); Assisted Acquisition Services (AAS); General Supplies and Services (GSS); and Travel, Motor Vehicles, and Card Services (TMVCS). The FAS portfolio structure enables GSA and FAS to provide best value services, products, and solutions to its customers by aligning resources around key functions.

Public Buildings Service (PBS)

PBS is the largest public real estate organization in the United States, providing facilities and workspace solutions to more than 60 Federal agencies. PBS aims to provide a superior workplace for the Federal worker and superior value for the U.S. taxpayer. Balancing these two objectives is PBS's greatest management challenge. PBS's activities fall into two broad areas. The first is space acquisition through both leases and construction. PBS translates general needs into specific requirements, marshals the necessary resources, and delivers the space necessary to meet the respective missions of its Federal clients. The second area is management of space. This involves making decisions on maintenance, servicing tenants, and ultimately, deciding when and how to dispose of a property at the end of its useful life.

Office of Governmentwide Policy (OGP)

OGP sets Governmentwide policy in the areas of personal and real property, travel and transportation, information technology, regulatory information and use of Federal advisory committees. OGP also helps direct how all Federal supplies and services are acquired, as well as GSA's own acquisition programs. OGP's regulatory function fully incorporates the provisions of the President's priorities and objectives under Executive Order 12866 with policies covering acquisition, travel, and property and management practices to promote efficient Government operations. OGP's strategic direction is to ensure that Governmentwide policies encourage agencies to develop and utilize the best, most cost effective management practices for the conduct of their specific programs. To reach the goal of improving Governmentwide management of property, technology, and administrative services, OGP builds and maintains a policy framework, by (1) incorporating the requirements of Federal laws, Executive orders, and other regulatory material into policies and guidelines, (2) facilitating Governmentwide reform to provide Federal managers with business-like incentives and tools, and flexibility to prudently manage their assets, and (3) identifying, evaluating, and promoting best practices to improve efficiency of management processes. OGP's policy regulations are described in the following subsections.

Travel and Relocation Policy (FTR)

Federal Travel Regulation (FTR) enumerates the travel and relocation policy for all title 5 Executive agency employees. The Code of Federal Regulations (CFR) is available at www.gpoaccess.gov/cfr. Each version is updated as official changes are published in the **Federal Register** (FR). FR publications and FTR looseleaf pages are available at www.gsa.gov/ftr.

The FTR is the regulation contained in 41 Code of Federal Regulations (CFR), chapters 300 through 304, that implements statutory requirements and Executive branch policies for travel by Federal civilian employees and others authorized to travel at Government expense.

The Administrator of General Services promulgates the FTR to: (a) Interpret statutory and other policy requirements in a manner that balances the need to ensure that official travel is conducted in a responsible manner with the need to minimize administrative costs and (b) communicate the resulting policies in a clear manner to Federal agencies and employees.

Property and Management Policy (FMR)

Federal Management Regulation (FMR) establishes policy for aircraft, transportation, personal property, and mail management. The FMR is the successor regulation to the Federal Property Management Regulation (FPMR). It contains updated regulatory policies originally found in the FPMR. However, it does not contain FPMR material that describes how to do business with the GSA.

Acquisition Policy (FAR and GSAR)

GSA helps provide to the public and the Federal buying community the updating and maintaining of the rule book for all Federal agency procurements, the Federal Acquisition Regulation (FAR). This is achieved through its extensive involvement with the Federal Acquisition Regulatory (FAR) Council. The FAR Council is comprised of senior representation from the Office of Federal Procurement Policy (OFPP), National Aeronautics and Space Administration (NASA), the Department of Defense (DoD), and GSA.

The FAR Council directs the writing of the FAR cases, which is accomplished, in part, by teams of expert FAR analysts. All changes to the FAR are accompanied by review and analysis of public comment. Public comments play an important role in clarifying and enhancing this rulemaking process. The regulatory agenda pertaining to changes to the FAR are outside the scope of this discussion as GSA cannot speak on behalf of the FAR Council.

GSA's internal rules and practices on how it buys goods and services from its business partners are covered by the General Services Administration Acquisition Manual (GSAM) and the General Services Administration Acquisition Regulation (GSAR). The

GSAM is closely related to the FAR as it supplements areas of the FAR where GSA has additional and unique regulatory requirements. OCAO's Office of Acquisition Policy writes and revises the GSAM and the GSAR. The size and scope of the FAR are substantially larger than the GSAR. In effect, the GSAR and the GSAM adds to the FAR by providing additional guidance to GSA officials and its business partners.

Federal Acquisition Regulation (FAR): The FAR was established to codify uniform policies for acquisition of supplies and services by Executive agencies. It is issued and maintained jointly, pursuant to the Office of Federal Procurement Policy (OFPP) Reauthorization Act, under the statutory authorities granted to the Secretary of Defense, Administrator of General Services, and the Administrator, National Aeronautics and Space Administration. Statutory authorities to issue and revise the FAR have been delegated to the Procurement Executives in Department of Defense (DoD), GSA and National Aeronautics and Space Administration (NASA).

GSA Acquisition Regulation Manual (GSAM) along with Acquisition Letters: The GSAM incorporates the GSAR as well as internal agency acquisition policy. The rules that require publication fall into two major categories:

- Those that affect GSA's business partners (e.g., prospective offerors and contractors).
- Those that apply to acquisition of leasehold interests in real property. The FAR does not apply to leasing actions. GSA establishes regulations for lease of real property under the authority of 40 U.S.C. 490 note.

GSA Acquisition Regulation (GSAR): The GSAR establishes agency acquisition rules and guidance which contains agency acquisition policies and practices, contract clauses, solicitation provisions, and forms that control the relationship between GSA and contractors and prospective contractors.

II. Statement of Regulatory and Deregulatory Priorities

FTR Regulatory Priorities

GSA plans, in fiscal year 2011, to amend the FTR by:

- Revising the Relocation Income Tax (RIT) Allowance; amending coverage on family relocation;
- Amending the calculations regarding the commuted rate for employee-managed household good shipments;
- Removing the Privately Owned Vehicle (POV) rates from the FTR; amending reimbursement for employees staying in their privately owned homes/condos while on TDY; and
- Revising policies within the FTR regarding the definition and coverage of domestic partners (to include same sex partners). Also, GSA plans to fully revise the FTR. This revision will begin during fiscal year 2011.

FMR Regulatory Priorities

GSA plans, in fiscal year 2011, to amend the FMR by:

- Revising rules regarding management of government aircraft;
- Revising rules regarding mail management;
- Amending coverage in motor vehicle management by revising the definition of ''motor vehicle rental'';
- Incorporating and migrating the provisions of the Federal Property Management Regulations (FPMR) regarding purchase of new motor vehicles from the to the FMR;
- Incorporating and migrating the provisions of the Interagency Fleet Management Systems from the Federal Property Management Regulations (FPMR) into the FMR;
- Amending transportation management regulations by revising coverage on open skies agreements, obligation authority and training for civilian transportation officers, and transportation data collection;
- Amending Transportation Management and Audit by revising the requirements regarding the refund of unused and expired tickets;
- Amending policy covering personal property to promote open government and disclosure by updating the requirements for submission of annual reports to use the automated reporting tool;
- Updating procedures for handling the transfer of Title for vehicles to donees via State Agencies for Surplus Property; removing activities related to the Federal Asset Sales program which initiated the program;
- Removing aircraft and aircraft-related parts from the exchange/sale prohibited list; and
- Migrating policy (including policy regarding supply and procurement) from the FPMR to the FMR.

GSAR Regulatory Priorities

GSA plans, in fiscal year 2011, to finalize the rewrite of the GSAR to maintain consistency with the Federal Acquisition Regulation (FAR) and to implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can utilize when entering into and administering contractual relationships. Currently, there are only a few parts of the GSAR rewrite effort still outstanding.

GSA is clarifying the GSAR by—

- Providing consistency with the FAR;
- Eliminating coverage that duplicates the FAR or creates inconsistencies within the GSAR;
- Correcting inappropriate references listed to indicate the basis for the regulation;
- Rewriting sections that have become irrelevant because of changes in technology or business processes or that place unnecessary administrative burdens on contractors and the Government;
- Streamlining or simplifying the regulation;
- Rolling up coverage from the services and regions/zones that should be in the GSAR;
- Providing new and/or augmented coverage; and
- Deleting unnecessary burdens on small businesses.

GSAR Proposed Rule

GSA proposes to provide the Agency Protest Official the discretion to require one or more protest parties to participate in oral presentations and/or submit additional written material related to the protest issues.

Regulations of concern to small businesses

FAR and GSAR rules are relevant to small businesses who do or wish to do business with the Federal Government. Approximately 18,000 businesses, most of whom are small, have GSA schedule contracts. GSA assists its small businesses by providing assistance through its Office of Small Business Utilization.

Regulations which promote open government and disclosure

While there are currently no regulations which promote open government and disclosure, all government contract spend transactions are available online through Federal

Procurement Data System-Next Generation (FPDS-NG).

Regulations required by statute or court order

There are no regulations required by statute or court order.

BILLING CODE 6820–34–S

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Statement of Regulatory Priorities

NASA plans to publish its 2011 Strategic Plan to accompany its FY 2012 budget request. NASA's mission, as stated in the draft 2011 Strategic Plan, is to ''drive advances in science, technology, and exploration to enhance knowledge, education, innovation, economic vitality, and stewardship of the Earth.'' This updated mission statement reflects NASA's practice of ensuring the knowledge and technologies developed to accomplish its missions are transferred to the public sector through programs, partnerships, and public outreach and engagement activities in ways that support the Administration's priorities.

Through a framework of six strategic goals, NASA's 2011 Strategic Plan guides our missions in human and robotic exploration, scientific discovery in earth and space science, technology innovation and development, and aeronautics research. The framework also includes strategic planning for NASA's human and institutional capabilities, which are critical to the success of our current and future missions, as well as the programs, to ensure the widest dissemination and use of NASA's results for the benefit of the Nation. The following strategic goal framework is intended to span a 20+ year horizon. The outcomes and more detailed objectives that flow from the strategic goals are also defined in the Strategic Plan and used to guide nearer term Agency activities:

Goal 1: Extend and sustain human activities across the solar system.

Goal 2: Expand scientific understanding of Earth and the universe in which we live.

Goal 3: Create innovative new space technologies for our exploration, science, and economic future.

Goal 4: Advance aeronautics research for societal benefit.

Goal 5: Enable program and institutional capabilities to conduct NASA's aeronautics and space activities. Goal 6: Share NASA with the public, educators, and students to provide opportunities to participate in our mission, foster innovation, and contribute to a strong national economy.

In the decades since Congress enacted the National Aeronautics and Space Act of 1958, NASA has challenged its scientific and engineering capabilities in pursuing its mission, while simultaneously generating tremendous results and benefits for humankind. NASA's founding legislation also instructed NASA to ''...provide for the widest practicable and appropriate dissemination of information...'' is a key principle of the Administration's Open Government initiative, and one that NASA has embedded in its operations for 50 plus years. NASA recognizes that ''open government'' is a process rather than a product and has taken a continuous-learning approach as outlined in Version 1.0 of the NASA Open Government Plan (http://www.nasa.gov/open/index.html). We strive to continuously improve the way in which we operate under OpenGov and are participating in related Administration initiatives, such as performance improvement (High Priority Performance Goals) and contributions of ''high value'' raw data sets and tools to Data.gov. NASA has also articulated in its strategic plan several overarching strategies that reflect the Administration's national priorities and are the basis of how we continue to govern the conduct of our work.

- **Investing in next-generation technologies** and approaches to spur innovation;
- **Inspiring students** to be our future scientists and engineers, explorers, and educators through interactions with NASA's people, missions, research, and facilities;
- **Expanding partnerships** with international, intergovernmental, academic, industrial, and entrepreneurial communities as important contributors of skill and creativity to our missions and for the propagation of our results;
- **Committing to environmental stewardship** through Earth observation and science, and the development and use of green technologies and capabilities in NASA missions and facilities; and
- **Securing the public trust** through transparency and accountability in our programmatic and financial management, procurement, and reporting practices.

The Federal Acquisition Regulation (FAR), 48 CFR chapter 1, contains procurement regulations that apply to NASA and other Federal agencies. As a member of the Federal Acquisition Regulatory Council and a FAR signatory, NASA participates with other Federal agencies to implement regulatory changes. In many cases, legislation provides the basis for changes to the procurement regulations. Change is also driven by case law, agency needs, and opportunity for improvement. In addition to its Federal role on the FAR Council, NASA implements and supplements FAR requirements through it's internal procurement regulations, the NASA FAR Supplement (NFS), 48 CFR chapter 18. For the most part, NASA's procurement regulations are procedural; they lay out the framework and processes by which to implement the Federal regulations. NASA does not plan any major NFS revisions in FY 2011. In a continuing effort to keep the NFS current and to implement NASA initiatives and Federal procurement policy, minor revisions to the NFS will be published.

NASA is planning to add a subpart to its regulations that will set forth policies and procedures relating to requirements for the filing of claims against NASA where a potential claimant believes NASA is infringing on privately owned rights in patented inventions or copyrighted works. The proposed regulations will set forth guidelines as to what NASA considers as necessary to file a claim for patent or copyright infringement.

The National Aeronautics and Space Administration (NASA) is proposing revisions to its regulations for implementing the National Environmental Policy Act of 1969 (NEPA) and the Council on Environmental Quality (CEQ) Code of Federal Regulations (CFR) (40 CFR parts 1500 to 1508). This proposed rule would replace procedures contained in NASA's current regulation at 14 CFR 1216.3, *Procedures for Implementing the National Environmental Policy Act.* The revision is necessary to clarify and update the current regulation. Since the previous major update of NASA's NEPA regulation in 1988, a number of Executive orders have streamlined the Federal Government through decentralization, reduction, and simplification of regulations, and management of risk. This proposed rule strives to meet the spirit of these Executive orders, while expanding the Categorical Exclusions in keeping with NASA's mission.

Regulations That Are of Particular Concern to Small Businesses

Regulations in FAR part 19—Small Business Programs, in particular FAR-19.5, FAR-19.8, FAR-19.13, and FAR-19.14, which address the various categories of small business, have caused confusion with both the small

businesses and Federal Contracting Officers. FAR-19.13, which addresses the Historically Underutilized Business Zone (HUBZone) Programs, in particular section 19.1305 (a) states, ''A participating agency contracting officer **shall** set aside acquisitions exceeding the simplified acquisition threshold for competition restricted to HUBZone small business concerns ....'' For the remaining categories of small business that allow set-a-sides, the FAR states either ''may'' or ''should'' be set-a-side.

Over the past year or so, there have been numerous GAO and Court decisions that have held up protests from HUBZone companies saying that the Government can only award to HUBZone companies because the FAR states ''shall'' award and the other programs state either ''may'' or ''should.'' Both the Small Business Administration (SBA) and the Office of Management and Budget (OMB) have issued direction to the Federal agencies stating, ''The GAO's Decisions are not binding on Federal agencies and are contrary to regulations promulgated by the Small Business Administration (SBA) that provide for ''parity'' among the three small business programs.''

The resulting environment is one in which Federal agencies are at significantly increased risk of upheld contract award protests, delayed procurements, and failure to meet small business goals in certain categories. Statutory changes are likely required in order to clarify FAR 19 and resolve the situation which greatly impacts the small business community.

BILLING CODE 7510–13–S

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Statement of Regulatory Priorities

Overview

The National Archives and Records Administration (NARA) issues regulations directed to other Federal agencies and to the public. Records management regulations directed to Federal agencies concern the proper management and disposition of Federal records. Through the Information Security Oversight Office (ISOO), NARA also issues Governmentwide regulations concerning information security classification and declassification programs. NARA regulations directed to the public address access to and use of our historically valuable holdings, including archives, donated historical materials, Nixon Presidential materials, and Presidential records. NARA also issues regulations relating to the National Historical Publications and Records Commission (NHPRC) grant programs.

NARA has two regulatory priorities for fiscal year 2010, which is included in The Regulatory Plan. The first is the drafting of regulations for the Office of Government Information Services (OGIS), established under the OPEN Government Act of 2007. OGIS has a two-pronged mission: (1) Review policies and procedures of administrative agencies under the Freedom of Information Act (FOIA); review compliance with FOIA by administrative agencies; and recommend policy changes to Congress and the President to improve the administration of FOIA; and (2) to provide mediation services to resolve disputes between FOIA requesters and agencies. OGIS also serves as the FOIA Ombudsman.

The second priority is an update to NARA's regulations related to declassification of classified national security information in records transferred to NARA's legal custody. The rule incorporates changes resulting from promulgation of Executive Order 13526, Classified National Security Information. These changes include establishing procedures for the automatic declassification of records in NARA's legal custody and revising requirements for reclassification of information to meet the provisions of E.O. 13526. Executive Order 13526 also created the National Declassification Center (NDC) with a mission to align people, processes, and technologies to advance the declassification and public release of historically valuable permanent records while maintaining national security.

NARA

PROPOSED RULE STAGE

158. OFFICE OF GOVERNMENT INFORMATION SERVICES

Priority:

Other Significant

Legal Authority:

PL 110–175

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

The Office of Government Information Services (OGIS), established under the OPEN Government Act of 2007, is responsible for reviewing policies and procedures of administrative agencies under the Freedom of Information Act (FOIA); reviewing compliance with FOIA by administrative agencies; and recommending policy changes to Congress and the President to improve the administration of FOIA.

Statement of Need:

The Office of Government Information Services (OGIS), established under the OPEN Government Act of 2007, may require implementing regulations.

Summary of Legal Basis:

The Open Government Act of 2007 (Pub. L. 110-175) requires the establishment of an Office of Government Information Services within NARA. OGIS will oversee Freedom of Information Act (FOIA) activities Governmentwide.

Anticipated Cost and Benefits:

OGIS, as an organization responsible for reviewing policies and procedures of administrative agencies under the Freedom of Information Act (FOIA); reviewing compliance with FOIA by administrative agencies; and recommending policy changes to Congress and the President to improve the administration of FOIA, is expected to increase the efficiency of the FOIA process.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	
Final Action	02/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

Agency Contact:

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RIN: 3095–AB62

NARA

159. DECLASSIFICATION OF NATIONAL SECURITY INFORMATION

Priority:

Other Significant. Major status under 5 USC 801 is undetermined.

Legal Authority:

EO 13526

CFR Citation:

36 CFR 1260

Legal Deadline:

None

Abstract:

Executive Order 13526, Classified National Security Information, mandates changes to National Security Information declassification processes. NARA is updating its regulations to incorporate these changes.

Statement of Need:

Executive Order 13526, Classified National Security Information, mandates changes to National Security Information declassification processes including the establishment of the National Declassification Center (NDC). NARA is updating its regulations to incorporate these changes.

Summary of Legal Basis:

Executive Order 13526, Classified National Security Information, mandates changes to National Security Information declassification processes including the establishment of the National Declassification Center (NDC).

Anticipated Cost and Benefits:

Executive Order 13526 created the National Declassification Center (NDC) with a mission to align people, processes, and technologies to advance the declassification and public release of historically valuable permanent records while maintaining national security.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	
NPRM Comment Period End	02/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Federal

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BILLING CODE 7515–01–S

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Statement of Regulatory Priorities

The Office of Personnel Management's mission is to ensure the Federal Government has an effective civilian workforce. OPM fulfills that mission by, among other things, providing human capital advice and leadership for the President and Federal agencies; delivering human resources policies, products, and services; and holding agencies accountable for their human capital practices. OPM's 2010 regulatory priorities are designed to support these activities.

Pay System for Senior Professionals (SL/ST)

OPM proposes to amend rules for setting and adjusting pay of senior-level (SL) and scientific and professional (ST) employees. The Senior Professional Performance Act of 2008 changed pay for these employees by eliminating their previous entitlement to locality pay and providing instead for rates of basic pay up to the rate payable for level III of the Executive Schedule (EX-III), or if the employee is under a certified performance appraisal system, the rate payable for level II of the Executive Schedule (EX-II). Consistent with this statutory emphasis on performance-based pay, these regulations will provide more flexible rules for agencies to set and adjust pay for SL and ST employees based primarily upon individual performance, contribution to the agency's performance, or both, as determined under a rigorous performance appraisal system.

Sick Leave

OPM anticipates issuing final regulations to entitle an employee to use sick leave to provide care for a family member when the relevant health authorities or a health care provider have determined that the family member's presence in the community would jeopardize the health of others because of the family member's exposure to a communicable disease. The final regulations would also permit agencies to advance a maximum of 240 hours (30 days) of sick leave to an employee if the employee's presence on the job would jeopardize the health of others because of exposure to a communicable disease and to advance a maximum of 104 hours (13 days) of sick leave to an employee to provide care for a family member who would jeopardize the health of others by that family member's presence in the community because of exposure to a communicable disease.

Benefits for Reservists and their Family Members

Qualifying exigencies

OPM anticipates issuing proposed regulations to implement section 565(b)(1) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010 (Pub. L. 111-84; Oct. 28, 2009) that amends the Family and Medical Leave Act (FMLA) provisions at 5 U.S.C. 6381 to 6383 to add qualifying exigencies to the circumstances or events that entitle Federal employees to up to 12 administrative workweeks of FMLA unpaid leave during any 12-month period. The proposed regulations would amend OPM's current regulations at part 630, subpart L, to cover qualifying exigencies when the spouse, son, daughter, or parent of the employee is on covered active duty in the Armed Forces or has been notified of an impending call or order to covered active duty. OPM proposes eight categories of qualifying exigencies: Short-notice deployments, military events and related activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities not encompassed in the other categories when the agency and employee agree they qualify as exigencies, including the timing and duration of the leave.

Reservist Differential

OPM will also continue to support Federal civilian employees called to active duty to further serve our Nation. OPM anticipates issuing proposed regulations to implement statutory changes that provide a new benefit to Federal civilian employees who are members of the Reserve or National Guard and who are called or ordered to active duty. Section 751 of the Omnibus Appropriations Act, 2009 (Pub. L. 111-8; March 11, 2009) established a new provision in 5 U.S.C. 5538 that became effective on March 15, 2009. Under this new law, eligible Federal civilian employees called to active duty may receive a reservist differential. The reservist differential is equal to the amount by which an employee's projected civilian ''basic pay'' for a covered pay period exceeds the employee's actual military ''pay and allowances'' allocable to that pay period. While each employing civilian agency is responsible for making these payments, OPM, in consultation with the Department of Defense, is required to issue regulations to implement the new benefit.

Suitability Reinvestigations

OPM is reopening the comment period for proposed regulations published on November 3, 2009. The proposed rule modifies the suitability regulations in 5 CFR 731 to assist agencies in carrying out new requirements to reinvestigate individuals in public trust positions under Executive Order 13488, *Granting Reciprocity on Excepted Service and Federal Contractor Employee Fitness and Reinvestigating Individuals in Positions of Public Trust*, to ensure their continued employment is appropriate. This reopener provides additional information relative to the scope of reinvestigations for public trust positions in order to allow for further comment as to reinvestigation frequency.

Designation of National Security Positions

OPM is proposing to revise its regulation regarding designation of national security positions. This proposed rule is one of a number of initiatives OPM has undertaken to simplify and streamline the system of Federal Government investigative and adjudicative processes to make them more efficient and as equitable as possible. The purpose of this revision is to clarify the requirements and procedures agencies should observe when designating national security positions as required under Executive Order 10450, *Security Requirements for Government Employment*. The proposed regulations clarify the categories of positions, which by virtue of the nature of their duties, have the potential to bring about a material adverse impact on the national security, whether or not the positions require access to classified information. The proposed regulations also acknowledge, for greater clarity, complementary requirements set forth in part 731, Suitability, so that every position is properly designated with regard to both public trust risk and national security sensitivity considerations. Finally, the proposed rule clarifies when reinvestigation of individuals in national security positions is required.

Personnel Investigations

OPM is participating in a review of the Federal Government's requirements for access to classified information and for suitability for employment. This review covers relevant statutes, Executive orders, and Governmentwide

regulations and is intended to determine whether a reengineered system that is cohesive, simplified, and equitable as possible can be developed. In particular, a reengineered system may require adjustments to OPM's regulations on personnel investigations.

Procedures for States and Localities to Request Indemnification

The Office of Personnel Management (OPM) is participating in a review of the Federal Government's requirements for access to classified information and for suitability for employment. This review covers relevant statutes, Executive orders, and Governmentwide regulations and is intended to determine whether a reengineered system that is cohesive, simplified, and equitable as possible can be developed. In particular, a reengineered system may require adjustments to OPM's regulations indemnification. OPM is also issuing a plain language rewrite of the regulation and the regulation will revise the part to be consistent with 5 U.S.C. 9101 (Pub. L. 99-169), as amended.

BILLING CODE 6325–44–S

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Statement of Regulatory and Deregulatory Priorities

The Pension Benefit Guaranty Corporation (PBGC) protects the pensions of about 44 million people in about 29,000 privately defined benefit plans. PBGC receives no funds from general tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusteed by PBGC, and recoveries from the companies formerly responsible for the trusteed plans.

To carry out these functions, PBGC issues regulations interpreting such matters as the termination process, establishment of procedures for the payment of premiums, reporting and disclosure, and assessment and collection of employer liability. The Corporation is committed to issuing simple, understandable, and timely regulations to help affected parties.

PBGC's intent is to issue regulations that implement the law in ways that do not impede the maintenance of existing defined benefit plans or the establishment of new plans. Thus, the focus is to avoid placing burdens on plans, employers, and participants, wherever possible. PBGC also seeks to ease and simplify employer compliance whenever possible.

PBGC Insurance Programs

PBGC administers two insurance programs for privately defined benefit plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA): A single-employer plan termination insurance program and a multiemployer plan insolvency insurance program.

- *Single-Employer Program.* Under the single-employer program, when a plan terminates with insufficient assets to cover all plan benefits (distress and involuntary terminations), PBGC pays plan benefits that are guaranteed under title IV. PBGC also pays nonguaranteed plan benefits to the extent funded by plan assets or recoveries from employers.
- *Multiemployer Program.* The smaller multiemployer program covers about 1,500 collectively bargained plans involving more than one unrelated employer. PBGC provides financial assistance (in the form of a loan) to the plan if the plan is unable to pay benefits at the guaranteed level. Guaranteed benefits are less than single-employer guaranteed benefits.

At the end of fiscal year 2010, PBGC had a $23 billion deficit in its insurance programs.

Regulatory Objectives and Priorities

As described below, PBGC's current regulatory objectives and priorities are to complete implementation of the Pension Protection Act of 2006 (PPA 2006) by issuing simple, understandable, and timely regulations that do not impose undue burdens that could impede maintenance or establishment of defined benefit plans. PBGC is also working on several regulatory projects not related to PPA 2006. These regulatory objectives and priorities are developed in the context of the Corporation's statutory purposes:

- To encourage voluntary private pension plans;
- To provide for the timely and uninterrupted payment of pension benefits; and
- To keep premiums at the lowest possible levels.

PBGC also attempts to minimize administrative burdens on plans and participants, improve transparency, simplify filing, provide relief for small businesses, and assist plans to comply with applicable requirements.

Transparency

The Corporation seeks to improve transparency of information to plan participants, plan sponsors, and PBGC, in order to make disclosure and reporting more meaningful and to encourage more responsible funding of pension plans.

PPA 2006 affected certain provisions in the PBGC's reportable events regulation, which requires employers to notify PBGC of certain plan or corporate events. In November 2009, PBGC published a proposed rule to conform the regulation to the PPA 2006 changes. The proposed rule would also eliminate most of the automatic waivers and filing extensions currently provided and make other amendments to enhance the regulation as a regulatory tool. PBGC expects to finalize this regulation, taking into account public comments, in late 2010.

PBGC has issued final rules to implement other reporting and disclosure provisions of PPA 2006. In November 2008, PBGC issued a regulation that requires disclosure of certain information to participants regarding the termination of their underfunded plan. In March 2009, PBGC issued a final regulation making PPA 2006 changes to the plan actuarial and employer financial information required under section 4010 of ERISA to be reported to PBGC by employers with large amounts of pension underfunding.

Reducing burden through electronic filing

PBGC has simplified filing by increasing use of electronic filing methods. Electronic filing of premium information has been mandatory for all plans for plan years beginning on or after January 1, 2007. Filers have a choice of using private-sector software that meets PBGC's published standards or using PBGC's software. Electronic premium filing simplifies filers' paperwork, improves accuracy of PBGC's premium records and database, and enables more prompt payment of premium refunds. Most of the premium changes under PPA 2006 have now been incorporated into software so that it will be easy to comply with the premium changes under the new law.

Employers with large amounts of underfunding in their plans must file actuarial and financial information under section 4010 of ERISA electronically. Electronic filing reduces the filing burden, improves accuracy, and better enables PBGC to monitor and manage risks posed by these plans. PBGC incorporated the PPA 2006 changes to this reporting into software so that it will be easy to comply with the reporting changes under the new law.

Small businesses

PBGC gives consideration to the special needs and concerns of small businesses in making policy. A large percentage of the plans insured by PBGC are small or maintained by small employers. The first regulation PBGC published under PPA 2006 implemented the cap on the variable-rate premium for plans of small employers; the final regulation was published in December 2007. In early 2011, the Corporation expects to issue a proposed regulation implementing the expanded missing participants program under PPA 2006, which will also benefit small businesses.

Other PPA 2006 changes

Under PPA 2006, if a plan terminates while its sponsor is in bankruptcy, and the bankruptcy was initiated on or after September 16, 2006, the bankruptcy filing date is treated as the plan termination date for purposes of determining the amount of benefits

PBGC guarantees and the amount of assets allocated to participants who retired or have been retirement-eligible for 3 years. In 2008, PBGC published a proposed regulation to implement this statutory change; PBGC expects to finalize the regulation in late 2010.

PPA 2006 changes the rules for determining benefits upon the termination of a statutory hybrid plan, such as a cash balance plan. PBGC plans to publish a proposed regulation in late 2010 to implement those rules in both PBGC-trusteed plans and in plans that close out in the private sector.

Under PPA 2006, the phase-in period for the guarantee of a benefit payable solely by reason of an ''unpredictable contingent event,'' such as a plant shutdown, starts no earlier than the date of the shutdown or other unpredictable contingent event. PBGC plans to publish a proposed regulation implementing this statutory change in late 2010.

Compliance assistance

PBGC has initiated a regulatory project to assist plans to comply with requirements applicable to certain substantial cessations of operations. ERISA section 4062(e) provides for reporting of and liability for certain substantial cessations of operations by employers that maintain single-employer plans. In July 2010, PBGC published a proposed regulation that provides guidance as to what constitutes a section 4062(e) event, on the reporting of such an event to PBGC, and on the determination and satisfaction of liability arising from such an event. Issuance of the guidance is expected to improve 4062(e) reporting as a regulatory tool.

Reemployed service members' pension benefits

In 2010, PBGC published a final regulation that implementing provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). USERRA provides that an individual who leaves a job to serve in the uniformed services is generally entitled to reemployment by the previous employer and, upon reemployment, to receive credit for benefits, including employee pension plan benefits, that would have accrued but for the employee's absence due to the military service. The regulation provides that so long as a service member is reemployed within the time limits set by USERRA, even if the reemployment occurs after the plan's termination date, PBGC treats the participant as having satisfied the reemployment condition as of the termination date. This ensures that the pension benefits of reemployed service members, like those of other employees, will generally be guaranteed for periods up to the plan's termination date.

PBGC will continue to look for ways to further improve its regulations.

BILLING CODE 7709–01–S

SMALL BUSINESS ADMINISTRATION (SBA)

Statement of Regulatory Priorities

Overview

The mission of the U.S. Small Business Administration (SBA) is to maintain and strengthen the Nation's economy by enabling the establishment and viability of small businesses and by assisting in economic recovery of communities after disasters. In carrying out this mission, SBA strives to improve the economic and regulatory environment for small businesses, especially those in areas that have significantly higher unemployment and lower income levels than the Nation's averages and those in traditionally underserved markets. The Agency serves as a direct lender or guarantor of small business loans and provides management and technical assistance and contracting opportunities to small businesses. The Agency also provides direct financial assistance to communities that have experienced catastrophes. This assistance is a critical factor in rebuilding the devastated economy and community.

SBA's regulatory policy encompasses these goals and objectives and is implemented primarily through several core program offices: Office of Capital Access, Office of Government Contracting and Business Development, Office of Entrepreneurial Development, and Office of Disaster Assistance. Other offices, such as the Office of Veterans Business Development and Office of Native American Affairs also play a role in developing and shaping Agency regulatory policies that affect veterans, American Indians, Alaska Natives, Native Hawaiians, and the indigenous people of Guam and American Samoa. SBA's fall 2009 regulatory plan focused on a cross section of regulations that encompassed practically all of these program areas. To date SBA has successfully implemented all but one of the five regulatory priorities identified in that fall 2009 plan. The remaining regulatory priority, which impacts SBA's major small business development programs, is included in the SBA fall 2010 regulatory plan. The other fall 2010 regulatory rules are to implement the recently enacted Small Business Jobs Act of 2010.

Openness and Transparency

SBA is committed to developing regulations that are clear, simple, and easily understood. In addition, consistent with the President's mandate, SBA continues to promote transparency, collaboration, and public participation in its rulemakings. To that end, SBA routinely solicits comments on its regulations, even those that are not subject to the public notice and comment requirement under the Administrative Procedures Act, and where appropriate, the Agency consults with other Federal agencies or other entities that the regulation might affect. SBA's regulatory process also includes an assessment of the relative costs and benefits of the Agency's regulations as required by Executive Order 12866 ''Regulatory Planning and Review,'' as well as an analysis under the Regulatory Flexibility Act of whether regulations will have a significant economic impact on small businesses or entities.

Reducing Paperwork Burden on Small Businesses

SBA's various program offices are engaged in an ongoing effort to meet the goals of the Paperwork Reduction Act. The Agency develops regulations that, to the extent possible, reduce or eliminate the burden on the public. The Agency also endeavors to meet the requirements of the Government Paperwork Elimination Act, as well as the E-Government Act, by making available various electronic options for doing business with the Agency. These electronic options include applications for financial assistance, participation in government contracting and surety bond assistance programs, applications for grants, and transmittal of loan reporting data.

Regulatory Framework

The SBA recently released a new strategic plan that will serve as the foundation for the regulations that the Agency will develop during fiscal years 2011 through 2016. This plan is based on three primary strategic goals: Growing businesses and creating jobs; building an SBA that meets needs of today's and tomorrow's small businesses; and serving as the voice for small business. In order to achieve these goals SBA will, among other objectives, focus on:

- Expanding small business' access to capital through SBA's extensive lending network.
- Ensuring Federal contracting goals are met or exceeded by collaborating across the Federal Government to expand opportunities for small businesses and strengthen the integrity of the Federal contracting data and certification process.
- Ensuring that SBA's disaster assistance resources for businesses, non-profit organizations, homeowners, and renters can be deployed quickly, effectively, and efficiently.
- Strengthening SBA's relevance to high growth entrepreneurs and small businesses to more effectively drive innovation and job creation.
- Mitigating risk to taxpayers and improving program oversight.

Regulatory Priorities

As reported in the Agency's fall 2010 regulatory agenda, SBA plans to publish several regulations during the coming year that are designed to achieve these goals. Over the next 12 months, SBA's highest regulatory priorities will include implementation of new programs or changes to existing programs that are mandated by the recently enacted Small Business Jobs Act of 2010 (Jobs Act). SBA will focus particularly on issuing regulations for those programs that will provide increased access to capital and contract opportunities for small businesses. SBA also plans to make implementation of comprehensive changes to the regulations governing the SBA 8(a) Business Development (8(a) BD) and Small Disadvantaged Business (SDB) programs, one of the Agency's highest priorities.

(1) Implementation of Jobs Act:

(a) Small Business Access to Capital

One of SBA's top priorities will be to amend the Certified Development Company Program (commonly referred to as the 504 Program) regulations to implement section 1122 of the Jobs Act. This section authorizes SBA to conduct a 2-year program under which borrowers may use proceeds from an SBA guaranteed loan to refinance certain debt. On June 23, 2009, as authorized by the American Recovery and Reinvestment Act of 2009 (Recovery Act), SBA published a rule that permitted the use of proceeds from a 504 loan to refinance debt related to the expansion of a small business. This rule would provide an added benefit to small businesses by allowing them to refinance debt for purposes other than expansion of the business.

Section 1131 of the Jobs Act authorizes SBA to establish a Small Business Intermediary Lending Pilot Program. This 3-year pilot program is intended to provide funds to private non-profit entities to make loans to eligible small businesses that are suffering from a lack of credit as a result of poor economic conditions or changes in the financial market. In order to give full effect to this purpose, SBA will also

prioritize implementation of this lending program.

(b) Small Business Federal Contracting Opportunities:

The Jobs Act also makes several changes to SBA's contracting programs. These changes are intended to increase Federal procurement opportunities for small businesses and strengthen their ability to compete for such contracts. Among other things, the changes address the challenges small businesses face when attempting to subcontract with prime contractors and provide contracting officers with options for setting aside orders on multiple award contracts, place limitations on contract bundling by agencies, and establish a Governmentwide mentor-protégé program for participants in certain SBA programs. This regulatory plan highlights issuance of regulations to govern the terms and conditions for setting aside portions of multiple award contracts for small businesses. However, as identified in the Agency's regulatory agenda, SBA also plans to develop other regulations where necessary to establish guidelines for implementing other changes authorized by the Jobs Act.

(2) *Other Regulatory Priority*

In addition to implementing these Jobs Act provisions, SBA will also focus on implementing changes to the 8(a) Business Development (8(a) BD) and Small Disadvantaged Business (SDB) programs. This major regulatory action signifies the first comprehensive amendment to the 8(a) BD program in more than a decade. Among other things, the changes are intended to prevent large businesses as well as other non-8(a) firms from being able to reap the benefits of sole source contracts intended for tribally owned or Alaska Native Corporation-owned 8(a) Participants. Through experience with the program and in listening to program participants or potential participants, SBA has learned that some program requirements are too restrictive and serve to unfairly preclude firms from being admitted to the program. In other cases, the requirements are deemed too expansive or indefinite. SBA will make changes that restrict or clarify such rules. Additional details regarding this regulation are described below in the Agency's regulatory plan.

In keeping with the President's call for a more open and transparent Government, during the development of this major regulation, SBA conducted several public meetings to engage the public in the rule formulation process. SBA also consulted with various tribal governments as required by Executive Order 13175 ''Tribal Consultations'' in several regions of the country. The final regulation will reflect these public discussions and tribal consultations and will benefit small business by clarifying SBA's requirements, removing confusion, and eliminating or easing restrictions that are unnecessary.

The 8(a)BD program serves as a good example of SBA's commitment to simplifying the process of conducting business with the Agency. The Agency has provided applicants for the 8(a)BD program the option of filing their applications and related documents for program participation electronically. This electronic option goes a long way to reduce the time and money applicants spend responding to Agency program requirements.

SBA

PROPOSED RULE STAGE

160. ● SMALL BUSINESS JOBS ACT: MULTIPLE AWARD CONTRACTS AND SMALL BUSINESS SET–ASIDES

Priority:

Other Significant

Legal Authority:

PL 111–240, sec 1311, 1331

CFR Citation:

13 CFR 124 to 127, 134

Legal Deadline:

Final, Statutory, September 27, 2011, SBA, with Office of Federal Procurement Policy, must issue guidance by September 27, 2011 under section 1331.

Abstract:

The U.S. Small Business Administration (SBA) is proposing regulations that will establish guidance under which Federal agencies may set aside part of a multiple award contract for small business concerns, set aside orders placed against multiple award contracts for small business concerns and reserve one or more awards for small business concerns under full and open competition for a multiple award contract. These regulations will apply to small businesses, including those small businesses eligible for SBA's socio-economic programs.

Statement of Need:

The law recognizes that many small businesses were losing Federal contract opportunities when agencies issue multiple award contracts. This will improve small business participation in the acquisition process and provide clear direction to contracting officers by authorizing small business set asides in multiple-award contracts.

Summary of Legal Basis:

The Small Business Jobs Act of 2010, Public Law No. 111-240, section 1331, requires the SBA to issue regulations implementing this provision within one year from the date of enactment.

Alternatives:

SBA has not yet determined the costs resulting from this regulation.

Anticipated Cost and Benefits:

This provision will allow small businesses to gain access to multiple award contracts through prime contract awards or through set asides of the orders of the prime contracts. This should increase opportunities for small businesses.

Risks:

Not applicable.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

Federal

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SBA

FINAL RULE STAGE

161. SMALL BUSINESS SIZE REGULATIONS; (8)A BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATION

Priority:

Other Significant

Legal Authority:

15 USC 634(b)(6), 636(j), 637(a) and (d)

CFR Citation:

13 CFR 124

Legal Deadline:

None

Abstract:

This rule proposes to make a number of changes to the regulations governing the 8(a) Business Development (8(a) BD) Program and several changes to SBA's size regulations. Some of the changes involve technical issues, such as changing the term ''SIC code'' to ''NAICS code'' to reflect the national conversion to the North American Industry Classification System. SBA has learned through experience that certain of its rules governing the 8(a) BD program are too restrictive and serve to unfairly preclude firms from being admitted to the program. In other cases, SBA has determined that a rule is too expansive or indefinite and has sought to restrict or clarify that rule. Changes are also being proposed to correct past public or agency misinterpretation. Also, new situations have arisen that were not anticipated when the current rules were drafted and the proposed rule seeks to cover those situations. Finally, one of the changes, implements statutory changes that impact Native Hawaiian Organizations.

Statement of Need:

Sections 8(a) and 7(j) of the Small Business Act authorize the SBA to administer the 8(a) BD program and assist eligible small disadvantaged business concerns compete in the American economy through business development. The 8(a) BD program provides procurement, financial, management and technical assistance to foster the business growth and development of 8(a) BD program participants. The proposed regulatory action is necessary to implement changes to the regulations governing the 8(a) BD program, the Small Disadvantaged Business (SDB) programs, and to the SBA size regulations. The changes are proposed as a result of the continuing need to ensure that SBA is effectively delivering the 8(a) BD program in accordance with the Small Business Act. In addition, the regulatory action is needed to enable SBA to institute the proper internal controls that will ensure effective monitoring and oversight of the 8(a) BD Program.

Summary of Legal Basis:

This rule proposes to make some changes that involve technical issues, correct some rules governing the 8(a) BD program that are too restrictive, and others that require clarification. The rule change will address new situations that have arisen that were not anticipated when the current rules were drafted. Finally, there is one change that implements a statutory change.

Alternatives:

SBA will analyze and consider the impact of any comments received from the public as a result of the proposed regulations being published in the Federal Register. Where relevant and appropriate, the regulations will be revised to incorporate these comments.

Anticipated Cost and Benefits:

It is difficult to estimate the costs and benefits to the various classes of firms affected by this rule as it is impossible to foresee which future contracts above the competitive thresholds would be awarded based on the various options available to contracting officers. SBA believes that the benefits of the proposed rule exceed its costs and exceed the benefits of continuing the status quo. SBA believes that increased clarity and easing of restrictions in the overall proposed changes set forth in this rule are beneficial to 8(a) applicants and Participants.

Risks:

Because the 8(a) Program is a business development program—not a contracting program—it is intended to foster the 8(a) firm's growth (through various forms of technical, management, procurement and financial assistance) and viability during the Participant's 9-year term.

The regulatory action is intended to mitigate any risks associated with program procedures and internal controls by ensuring clear and concise regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/28/09	74 FR 55694
NPRM Comment Period End	12/28/09	
NPRM Comment Period Extended	12/09/09	74 FR 65040
Hearing; Tribal Consultation	12/07/09	74 FR 64026
Hearing	12/14/09	74 FR 66176
Hearing	01/11/10	75 FR 1296
NPRM Comment Period End	01/28/10	
Final Action	02/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses, Governmental Jurisdictions

Government Levels Affected:

None

URL For Public Comments:

www.regulations.gov

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RIN: 3245–AF53

SBA

162. • SMALL BUSINESS JOBS ACT: 504 LOAN PROGRAM DEBT REFINANCING

Priority:

Other Significant

Legal Authority:

Pub L 111–240, sec 1122

CFR Citation:

13 CFR 120, subpart H

Legal Deadline:

Final, Statutory, September 27, 2012, Authority for program is repealed 2 years after date of enactment of Small Business Jobs Act of 2010.

Abstract:

The Small Business Jobs Act directs SBA to conduct a two-year program of debt refinancing in the 504 loan program. The rule sets forth the procedures for the refinancing of qualified debt and other statutory

requirements. The rule also conforms the job creation and retention goals of the 504 program to the Act.

Statement of Need:

Small businesses continue to struggle to gain access to the capital that would enable them to continue to pay their employees, pay vendors or expand their operations. The Jobs Act authorizes several financing options that are designed to strengthen the capacity of these small businesses to obtain the funds they need to create jobs and stimulate economic growth. Section 1122 of the Small Business Jobs Act is one such option that SBA is required to implement as soon as practicable in order to maximize the authority which expires on September 27, 2012.

Summary of Legal Basis:

Section 5(a)(6) of the Small Business Act authorizes SBA's Administrator to make such rules and regulations as deemed necessary to carry out any authorities vested in the Administrator.

Alternatives:

SBA currently has regulations governing debt refinancing. Regulations are necessary in order to conform those existing regulations to the additional debt refinancing authority provide by the Jobs Act.

Anticipated Cost and Benefits:

At this time SBA has not yet estimated the costs or benefits that may result from this rulemaking.

Risks:

Not Yet Determined

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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SBA

163. • SMALL BUSINESS JOBS ACT: SMALL BUSINESS INTERMEDIARY LENDING PILOT PROGRAM

Priority:

Other Significant

Legal Authority:

PL 111–240, sec 1131

CFR Citation:

13 CFR 120, subpart L

Legal Deadline:

Final, Statutory, March 26, 2011, sec 1131(b) of the Jobs Act requires SBA to issue implementing regulations no later than March 26, 2011.

Abstract:

The Small Business Jobs Act directs SBA to conduct a 3-year Small Business Intermediary Lending Pilot Program. SBA will provide loans to eligible intermediaries for the purpose of making loans to start-up, newly established, and growing small business concerns. The rule implements the statute and sets the terms and conditions of the loans made under the Program.

Statement of Need:

Due to higher underwriting requirements and resource constraints faced by banks, small business borrowers face significant gaps in the credit market. As a result of these gaps, more small business borrowers are turning to nonprofit lending intermediaries to provide low-cost alternatives to traditional bank financing. These nonprofit lending intermediaries have experience offering the financial products and services that banks, for various reasons, are unable or unwilling to offer. The ILPP will help to fill these credit gaps by providing very low interest loans to selected intermediaries. The intermediaries will then use the money to make loans to small businesses that have needs exceeding the limits of SBA's Microloan program but cannot obtain financing through a conventional lender, even with a 7(a) guaranty.

Summary of Legal Basis:

Section 1131(b) of the Jobs Act requires SBA to issue regulations no later than March 26, 2011, in order to implement the intermediary lending pilot program.

Alternatives:

Because the Jobs Act requires SBA to issue regulations, the Agency cannot consider other alternatives ways to carry out the lending program pilot authority.

Anticipated Cost and Benefits:

SBA has not yet analyzed the costs and benefits resulting from the implementation of the intermediary lending pilot program.

Risks:

Yet to be determined.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/11	

Regulatory Flexibility Analysis Required:

Yes

Small Entities Affected:

Businesses

Government Levels Affected:

None

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BILLING CODE 8025–01–S

SOCIAL SECURITY ADMINISTRATION (SSA)

Statement of Regulatory Priorities

We administer the Retirement, Survivors, and Disability Insurance programs under title II of the Social Security Act (Act), the Supplemental Security Income (SSI) program under title XVI of the Act, and the Special Veterans Benefits program under title VIII of the Act. As directed by Congress, we also assist in administering portions of the Medicare program under title XVII of the Act. Our regulations codify the requirements for eligibility and entitlement to benefits and our procedures for administering these programs. Generally, our regulations do not impose burdens on the private sector or on State or local governments, except for the States' disability determination services.

The eight entries in our regulatory plan (plan) represent issues of major importance to the Agency. We describe the individual initiatives more fully in the attached plan.

Improving the Disability Process

Because the continued improvement of the disability program is of vital concern to us, we have eight initiatives in the plan addressing disability-related issues. They include:

- A proposed rule providing that we identify claimants with serious medical conditions as soon as possible, allowing us to grant benefits expeditiously to those claimants who meet Social Security disability standards;
- A proposed rule reestablishing Uniform National Disability Adjudication provisions in our Boston Region;
- Four proposed rules updating the medical listings used to determine disability—evaluating respiratory system disorders, mental disorders, hematological disorders, and endocrine disorders. The revisions reflect our adjudicative experience, advances in medical knowledge, diagnosis, and treatment.

Enhance Public Service

- We are proposing to revise our rules to establish a 12-month time limit for the withdrawal of an old-age benefits application. The proposed rule would permit only one withdrawal per lifetime.
- We will prepare a final rule to clarify and revise what we consider major life-changing events for the Medicare Part B income-related, monthly adjustment and what evidence we require to support a claim of a major life-changing event.

SSA

PROPOSED RULE STAGE

164. REVISED MEDICAL CRITERIA FOR EVALUATING RESPIRATORY SYSTEM DISORDERS (859P)

Priority:

Other Significant. Major under 5 USC 801.

Legal Authority:

42 USC 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 416(i); 42 USC 421(a); 42 USC 421(i); 42 USC 423; 42 USC 902(a)(5); 42 USC 1381a; 42 USC 1382c; 42 USC 1383; 42 USC 1383b

CFR Citation:

20 CFR 404.1500, app 1

Legal Deadline:

None

Abstract:

Sections 3.00 and 103.00, Respiratory System, of appendix 1 to subpart P of part 404 of our regulations describe respiratory system disorders that are considered severe enough to prevent an individual from doing any gainful activity or that cause marked and severe functional limitations for a child claiming SSI payments under title XVI. We are proposing to revise these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need:

These proposed regulations are necessary to update the Respiratory System listings to reflect advances in medical knowledge, treatment, and methods of evaluating respiratory disorders. The changes would ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis:

Administrative—not required by statute or court order.

Alternatives:

We considered not revising the listings and continuing to use our current criteria. However, we believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating respiratory diseases and because of our adjudicative experience.

Anticipated Cost and Benefits:

Estimated costs—low.

Risks:

None.

Timetable:

Action	Date	FR Cite
ANPRM	04/13/05	70 FR 19358
ANPRM Comment Period End	06/13/05	
NPRM	02/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

URL For Public Comments:

www.regulations.gov

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SSA

165. REVISED MEDICAL CRITERIA FOR EVALUATING HEMATOLOGICAL DISORDERS (974P)

Priority:

Other Significant

Legal Authority:

42 USC 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42

USC 416(i); 42 USC 421(a); 42 USC 421(i); 42 USC 423; 42 USC 902(a)5); 42 USC 1381a; 42 USC 1382c; 42 USC 1383; 42 USC 1383b

CFR Citation:

20 CFR 404.1500, app 1

Legal Deadline:

None

Abstract:

Sections 7.00 and 107.00, Hematological Disorders, of appendix 1 to subpart P of part 404 of our regulations, describe hematological disorders that are considered severe enough to prevent a person from performing any gainful activity or that cause marked and severe functional limitation for a child claiming SSI payments under title XVI. We are proposing to revise the criteria in these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need:

These proposed regulations are necessary to update the hematological listings to reflect advances in medical knowledge, treatment, and methods of evaluating hematological disorders. The changes ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis:

Administrative—not required by statute or court order.

Alternatives:

We considered not revising the listings or making only minor technical changes and continuing to use our current criteria. However, we believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating these types of impairments.

Anticipated Cost and Benefits:

Estimated savings - low.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

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SSA

FINAL RULE STAGE

166. REVISED MEDICAL CRITERIA FOR EVALUATING ENDOCRINE SYSTEM DISORDERS (436P)

Priority:

Other Significant

Legal Authority:

42 USC 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 416(i); 42 USC 421(a); 42 USC 421(i); 42 USC 423; 42 USC 902(a)(5); 42 USC 1381a; 42 USC 1382c; 42 USC 1383; 42 USC 1383b

CFR Citation:

20 CFR 404.1500, app 1

Legal Deadline:

None

Abstract:

Sections 9.00 and 109.00, Endocrine System, of appendix 1 to subpart P of part 404 of our regulations describe endocrine system disorders that are considered severe enough to prevent an individual from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming SSI payments under title XVI. We will revise these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need:

We are revising the listings for endocrine disorders because, since we last published final rules making comprehensive revisions to the endocrine listings in 1985, medical science has made significant advances in detecting endocrine disorders at earlier stages, and new treatments have resulted in better management of these conditions. Consequently, most endocrine disorders do not reach listing-level severity because they do not become sufficiently severe or do not remain at a sufficient level of severity long enough to meet our 12-month duration requirement. For persons whose endocrine disorders are not controlled, we make individualized determinations about disability. We have determined that, with the exception of children under age 6 who have diabetes mellitus (DM) and require daily insulin, we should no longer have listings in section 9.00 and 109.00 based on endocrine disorders alone.

Summary of Legal Basis:

Administrative—not required by statute or court order.

Alternatives:

We considered not revising the listings or making only minor technical changes and continuing to use our current criteria. However, we believe that finalizing these revisions is preferable because of the medical advances that have been made in treating and evaluating these types of disorders.

Anticipated Cost and Benefits:

Not yet determined.

Risks:

None.

Timetable:

Action	Date	FR Cite
ANPRM	08/11/05	70 FR 46792
ANPRM Comment Period End	10/11/05	
NPRM	12/14/09	74 FR 66069
NPRM Comment Period End	02/12/10	
Final Action	01/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

URL For Public Comments:

www.regulations.gov

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SSA

167. REVISED MEDICAL CRITERIA FOR EVALUATING MENTAL DISORDERS (886P)

Priority:

Other Significant

Legal Authority:

42 USC 402; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 42 USC 405(h); 42 USC 416(i); 42 USC 421(a); 42 USC 421(h); 42 USC 421(i); 42 USC 423; 42 USC 902(a)(5); 42 USC 1381a; 42 USC 1382c; 42 USC 1383; 42 USC 1383b

CFR Citation:

20 CFR 404.1500, app 1; 20 CFR 404.1520a; 20 CFR 416.920a; 20 CFR 416.934

Legal Deadline:

None

Abstract:

Sections 12.00 and 112.00, Mental Disorders, of appendix 1 to subpart P of part 404 of our regulations describe those mental impairments that are considered severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming SSI payments under title XVI. We are proposing to revise the criteria in these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need:

These regulations are necessary to update the listings for evaluating mental disorders to reflect advances in medical knowledge, treatment, and methods of evaluating these disorders. The changes will ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that people who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis:

Administrative—not required by statute or court order.

Alternatives:

We considered not revising the listings or making only minor technical changes. However, we believe that proposing these revisions is preferable because of the medical advances that have been made in treating and evaluating these types of disorders. We have not comprehensively revised the current listings in over 15 years. Medical advances in disability evaluation and treatment and our program experience make clear that the current listings do not reflect state-of-the-art medical knowledge and technology.

Anticipated Cost and Benefits:

Savings estimates for fiscal years 2010 to 2018: (in millions of dollars) OASDI-315, SSI-370.

Risks:

None.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/03	68 FR 12639
ANPRM Comment Period End	06/16/03	
NPRM	08/19/10	75 FR 51336
NPRM Comment Period End	11/17/10	
Final Action	07/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

URL For Public Comments:

www.regulations.gov

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SSA

168. REESTABLISHING UNIFORM NATIONAL DISABILITY ADJUDICATION PROVISIONS (3502F)

Priority:

Other Significant

Legal Authority:

30 USC 923(b); 42 USC 401(j); 42 USC 402; 42 USC 404(f); 42 USC 405; 42 USC 405(a); 42 USC 405(b); 42 USC 405(d) to 405(h); 42 USC 405(j); 42 USC 405(s); 42 USC 405 note; 42 USC 416(i); 42 USC 421; 42 USC 421(a); 42 USC 421(i); 42 USC 421(m); 42 USC 421 note; 42 USC 422(c); 42 USC 423; 42 USC 423(i); 42 USC 423 note; 42 USC 425; 42 USC 432; 42 USC 902(a)(5); 42 USC 902 note; 42 USC 1320b–1; 42 USC 1320b–13; 42 USC 1381; 42 USC 1381a; 42 USC 1382; 42 USC 1382c; 42 USC 1382h; 42 USC 1382h note; 42 USC 1383; 42 USC 1383(a); 42 USC 1383(c); 42 USC 1383(d)(1); 42 USC 1383(p); 42 USC 1383b

CFR Citation:

20 CFR 404.906; 20 CFR 404.930; 20 CFR 404.1502; 20 CFR 404.1512; 20 CFR 404.1513; 20 CFR 404.1519k; 20 CFR 404.1519m; 20 CFR 404.1519s; 20 CFR 404.1520a; 20 CFR 404.1526; 20 CFR 404.1527; 20 CFR 404.1529; 20 CFR 404.1546; 20 CFR 404.1601; 20 CFR 404.1616; 20 CFR 404.1624; 20 CFR 405; 20 CFR 416.902; 20 CFR 416.912; 20 CFR 416.913; 20 CFR 416.919k; 20 CFR 416.919m; 20 CFR 416.919s; 20 CFR 416.920a; 20 CFR 416.924; 20 CFR 416.926; 20 CFR

416.926a; 20 CFR 416.927; 20 CFR 416.929; 20 CFR 416.946; 20 CFR 416.1001; 20 CFR 416.1016; 20 CFR 416.1024; 20 CFR 416.1406; 20 CFR 416.1430; 20 CFR 422.130; 20 CFR 422.140; 20 CFR 422.201

Legal Deadline:

None

Abstract:

We are eliminating the remaining portions of part 405 of our rules, which we now use for initial disability claims in our Boston region. We will use the same rules for disability claims in the Boston region that we use for disability adjudications in the rest of the country, including those rules that apply to the administrative law judge (ALJ) and Appeals Council (AC) levels of our administrative review process in parts 404 and 416 of our rules.

Statement of Need:

To provide more consistent processing of appeals level claims for all regions.

Summary of Legal Basis:

Administrative—not required by statute or court order.

Alternatives:

Continue existing process.

Anticipated Cost and Benefits:

Cost estimates for fiscal year 2009 to 2018: (in millions of dollars) OASDI-55, SSI-7.

Risks:

None.

Timetable:

Action	Date	FR Cite
NPRM	12/04/09	74 FR 63688
NPRM Comment Period End	02/02/10	
Final Action	02/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

None

URL For Public Comments:

www.regulations.gov

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SSA

169. AMENDMENTS TO REGULATIONS REGARDING MAJOR LIFE–CHANGING EVENTS AFFECTING INCOME–RELATED MONTHLY ADJUSTMENTS AMOUNTS TO MEDICARE PART B PREMIUMS (3574F)

Priority:

Other Significant

Legal Authority:

42 USC 902(a)(5); 42 USC 1395r(i)

CFR Citation:

20 CFR 418.1205; 20 CFR 418.1210; 20 CFR 418.1230; 20 CFR 418.1255; 20 CFR 418.1265

Legal Deadline:

None

Abstract:

We are modifying our regulations in order to clarify and expand events considered life-changing events for the purposes of Medicare Part B income-related monthly adjustments as well as the types of evidence required to support claims of such events.

Statement of Need:

We are modifying our regulations to clarify and revise what we consider major life-changing events for the Medicare Part B income-related monthly adjustment amount (IRMA) and what evidence we require to support a claim of a major life-changing event. Recent changes in the economy and other unforeseen events have had a significant effect on many Medicare Part B beneficiaries. These changes we are making in this final rule will allow us to respond appropriately to circumstances brought about by the current economic climate and these other unforeseen events.

Summary of Legal Basis:

Discretionary. Not required by statute or court order.

Alternatives:

None.

Anticipated Cost and Benefits:

Not yet determined.

Risks:

None.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/15/10	75 FR 41084
Interim Final Rule Comment Period End	09/13/10	
Final Action	03/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

Undetermined

URL For Public Comments:

www.regulations.gov

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SSA

170. AMENDMENTS TO REGULATIONS REGARDING WITHDRAWALS OF APPLICATIONS AND VOLUNTARY SUSPENSION OF BENEFITS (3573I)

Priority:

Other Significant

Legal Authority:

42 USC 402; 42 USC 402(i); 42 USC 402(j); 42 USC 402(o); 42 USC 402(p);

42 USC 402(r); 42 USC 403(a); 42 USC 403(b); 42 USC 405(a); 42 USC 416; 42 USC 416(i)(2); 42 USC 423; 42 USC 423(b); 42 USC 425; 42 USC 428(a) to 428(e); 42 USC 902(a)(5)

CFR Citation:

20 CFR 404.313; 20 CFR 404.640

Legal Deadline:

None

Abstract:

We propose to modify our regulations to establish a 12-month time limit for the withdrawal of an old age benefits application. We also propose to permit only one withdrawal per lifetime. These proposed changes would limit the voluntary suspension of benefits only to those benefits disbursed in future months.

Statement of Need:

This rule will allow us to establish a 12-month time limit for the withdrawal of an old age benefits application.

Summary of Legal Basis:

Discretionary

Alternatives:

None.

Anticipated Cost and Benefits:

Not yet determined.

Risks:

None.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/11	

Regulatory Flexibility Analysis Required:

No

Small Entities Affected:

No

Government Levels Affected:

Undetermined

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CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Statement of Regulatory Priorities

The Consumer Financial Protection Bureau is in a stand-up phase as it prepares to accept functions transferring from seven other Federal agencies on July 21, 2011, and employees from six of those agencies on or about the same date. The Agency will need to promulgate various housekeeping rules governing such topics as administrative procedures, data security and privacy protections, and enforcement procedures as part of the stand-up process.

With regard to substantive rules under Federal consumer financial laws that transfer to the CFPB's jurisdiction or become effective on July 21, 2011, much of the CFPB's immediate focus will be on implementing mandatory rulemakings under the Dodd-Frank Act concerning mortgages, remittances, and data reporting on consumer financial services. Other agencies such as the Federal Reserve Board may begin developing rules on some of these topics prior to the July 21 transfer date, at which time the CFPB will become responsible for completing Dodd-Frank Act mandates in accordance with statutory deadlines.

BILLING CODE 4810–25–S

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Statement of Regulatory Priorities

The U.S. Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of death and injury associated with consumer products. To achieve this goal, the Commission:

- Develops mandatory product safety standards or banning rules when other, less restrictive, efforts are inadequate to address a safety hazard, or where required by statute;
- Obtains repair, replacement, or refund of the purchase price for defective products that present a substantial product hazard;
- Develops information and education campaigns about the safety of consumer products;
- Participates in the development or revision of voluntary product safety standards; and
- Follows congressional mandates to enact specific regulations.

When deciding which of these approaches to take in any specific case, the Commission gathers and analyzes the best available data about the nature and extent of the risk presented by the product. The Commission's rules require the Commission to consider, among other factors, the following criteria when deciding the level of priority for any particular project:

- Frequency and severity of injury;
- Causality of injury;
- Chronic illness and future injuries;
- Costs and benefits of Commission action;
- Unforeseen nature of the risk;
- Vulnerability of the population at risk; and
- Probability of exposure to the hazard.

If the Commission proposes a mandatory safety standard for a particular product, the Commission is generally required to make statutory cost/benefit findings and adopt the least burdensome requirements that adequately protect the public.

Additionally, the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110-314 (Aug. 14, 2008), requires numerous rules and notices to be completed on a specific schedule. One such regulatory action pertains to the testing, certification, and labeling of certain consumer products. Section 102(d)(2) of the CPSIA requires the Commission to initiate by regulation: (1) A program by which a manufacturer or private labeler may label a consumer product as complying with the certification requirements of section 102(a) of the CPSIA; (2) protocols and standards (i) for ensuring that a children's product tested for compliance with an applicable children's product safety rule is subject to testing periodically and when there has been a material change in the product's design or manufacturing process, including the sourcing of component parts; (ii) for the testing of random samples to ensure continued compliance; (iii) for verifying that a children's product tested by a conformity assessment body complies with applicable children's product safety rules; and (iv) for safeguarding against the exercise of undue influence on a third-party conformity assessment body by a manufacturer or private labeler. This regulatory action will constitute a ''significant regulatory action'' under the definition in Executive Order 12866 ''Regulatory Planning and Review'' (Oct. 4, 1993).

CPSC

FINAL RULE STAGE

171. TESTING, CERTIFICATION, AND LABELING OF CERTAIN CONSUMER PRODUCTS

Priority:

Economically Significant. Major under 5 USC 801.

Legal Authority:

PL 110–314, sec 102

CFR Citation:

Not Yet Determined

Legal Deadline:

NPRM, Statutory, November 14, 2009.

Abstract:

Section 102(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110-314 (Aug. 14, 2008), requires the Commission to initiate by regulation, no later than 15 months after the date of enactment: (1) A program by which a manufacturer or private labeler may label a consumer product as complying with the certification requirements of section 102(a) of the CPSIA; (2) protocols and standards (i) for ensuring that a children's product tested for compliance with an applicable children's product safety rule is subject to testing periodically and when there has been a material change in the product's design or manufacturing process, including the sourcing of component parts; (ii) for the testing of random samples to ensure continued compliance; (iii) for verifying that a children's product tested by a conformity assessment body complies with applicable children's product safety rules; and (iv) for safeguarding against the exercise of undue influence on a third-party conformity assessment body by a manufacturer or private labeler. In May 2010, the Commission published a Notice of Proposed Rulemaking (NPRM) in the Federal Register. The proposed rule defined a reasonable testing program for non-children's products subject to a rule, ban, standard, or regulation enforced by the Commission and additional third-party testing requirement for children's products.

Statement of Need:

Section 102(d) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Consumer Product Safety Commission (CPSC) to engage in rulemaking to establish requirements pertaining to the testing, certification, and labeling of certain consumer products. CPSC also has elected to issue regulations regarding a ''reasonable testing program'' under section 102(a) of the CPSIA to establish the elements of such a program.

Summary of Legal Basis:

Section 102(b) of the CPSIA requires the Commission to initiate by regulation: (1) A program by which a manufacturer or private labeler may label a consumer product as complying with the certification requirements of section 102(a) of the CPSIA; (2) protocols and standards (i) for ensuring that a children's product tested for compliance with an applicable children's product safety rule is subject to testing periodically and when there has been a material change in the product's design or manufacturing process, including the sourcing of component parts; (ii) for the testing of random samples to ensure continued compliance; (iii) for verifying that a children's product tested by a conformity assessment body complies with applicable children's product safety rules; and (iv) for safeguarding against the exercise of undue influence on a third-party conformity assessment body by a manufacturer or private labeler.

Section 102(a) of the CPSIA requires manufacturers of certain products to certify, based on a test of each product or upon a reasonable testing program, that such product comports with all rules, bans, standards, or regulations applicable to the product under laws enforced by CPSC. Section 3 of the CPSIA authorizes the Commission to issue regulations, as necessary, to implement the CPSIA and the amendments made by the CPSIA.

Alternatives:

The preamble to the proposed rule invited comment on alternatives such as: (1) Establishing different compliance or reporting requirements that take into account the resources available to small businesses; (2) clarifying, consolidating, or simplifying compliance and reporting requirements for small entities; (3) using performance rather than design standards; and (4) exempting small entities to the extent statutorily permissible under section 14 of the CPSA. However, the proposal would give firms considerable discretion to determine the precise nature of their testing programs (including the number of samples to be tested and testing frequency). As for exemptions, the statute does not appear to give the Commission the authority to exempt firms from the testing or certification requirements, so it may not be possible to exempt firms within section 14 of the CPSA.

Anticipated Cost and Benefits:

The congressional mandate to issue this regulation does not require the Consumer Product Safety Commission to do a cost/benefit analysis for this regulation. Therefore, a cost/benefit analysis is not available for this regulatory action.

Risks:

Congress determined a need for testing, and in the case of children's products, third-party testing to ensure compliance with the Agency's standards. The Agency's standards address unreasonable risks of injury associated with consumer products; testing and certification to these standards provide an extra assurance that the consumer products are free from those unreasonable risks of injury; and through such testing programs, encourage manufacturers to address possible risks in the early stages of product manufacture. Given the breadth of the risks of injury the Agency's standards address and the number of products that are subject to testing or third-party testing, it is not possible to provide an analysis of the magnitude of the risk this regulatory action addresses.

Timetable:

Action	Date	FR Cite
Staff Sends Briefing Package to the Commission	04/01/10	
Commission Decision	05/05/10	
NPRM	05/20/10	75 FR 28336
NPRM Comment Period End	08/03/10	
Staff Sends Briefing Package to Commission	01/00/11	

Regulatory Flexibility Analysis Required:

Undetermined

Government Levels Affected:

None

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FEDERAL TRADE COMMISSION (FTC)

Statement of Regulatory Priorities

I.Regulatory Priorities

Background

The Federal Trade Commission (''FTC'' or ''Commission'') is an independent agency charged by its enabling statute, the Federal Trade Commission Act, with protecting American consumers from ''unfair methods of competition'' and ''unfair or deceptive acts or practices'' in the marketplace. The Commission strives to ensure that consumers benefit from a vigorously competitive marketplace. The Commission's work is rooted in a belief that competition, based on truthful and non-misleading information about products and services, brings the best choice of products and services at the lowest prices for consumers.

The Commission pursues its goal of promoting competition in the marketplace through two different, but complementary, approaches. Unfair or deceptive acts or practices injure both consumers and honest competitors alike and undermine competitive markets. Through its consumer protection activities, the Commission seeks to ensure that consumers receive accurate, truthful, and non-misleading information in the marketplace. At the same time, for consumers to have a choice of products and services at competitive prices and quality, the marketplace must be free from anticompetitive business practices. Thus, the second part of the Commission's basic mission—antitrust enforcement—is to prohibit anticompetitive mergers or other anticompetitive business practices without unduly interfering with the legitimate activities of businesses. These two complementary missions make the Commission unique insofar as it is the Nation's only Federal agency to be given this combination of statutory authority to protect consumers.

The Commission is, first and foremost, a law enforcement agency. It pursues its mandate primarily through case-by-case enforcement of the Federal Trade Commission Act and other statutes. In addition, the Commission is also charged with the responsibility of issuing and enforcing regulations under a number of statutes. Most notably, pursuant to the FTC Act, the Commission currently has in place 16 trade regulation rules. Other examples include the regulations enforced pursuant to credit and financial statutes[1] and to energy laws.[2] The Commission also has adopted a number of voluntary industry guides. Most of the regulations and guides pertain to consumer protection matters and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions.

Commission Initiatives

The Commission vigorously protects consumers through a variety of tools including both regulatory and non-regulatory approaches. To that end, it has encouraged industry self-regulation, developed a corporate leniency policy for certain rule violations, and established compliance partnerships where appropriate.

As detailed below, information privacy and security, the evolving nature of technology, health care, consumer credit and finance issues, and marketing to children continue to be at the forefront of the Commission's consumer protection and competition programs. By subject area, we discuss the major workshops, reports,[3] and initiatives the FTC has pursued since the 2009 Regulatory Plan was published.

(a)Medical and Health Care. On January 13, 2010, FTC staff released a report entitled ''Pay-for-Delay: How Drug Company Pay-Offs Cost Consumers Billions.''[4] The study found that settlement deals featuring payments by branded drug firms to a generic competitor kept generics off the market for an average of 17 months longer than agreements that do not include a payment and cost consumers an estimated $3.5 billion per year—or $35 billion over 10 years.

In a speech to the American Medical Association in June 2010, Chairman Jon Leibowitz noted that the new health care reform law establishes programs for Medicare called ''accountable care organizations,'' or ACOs, as possible devices to improve quality and lower the cost of health care. On October 5, 2010, the Commission held a public workshop on health care competition policy, payment reform, and the new models for delivering health care that seek to incentivize high-quality, cost-effective care. The FTC workshop focused on how ACOs could affect competition in commercial health care markets.

(b) Assistance to Consumers in Financial Distress. Historic levels of consumer debt, increased unemployment, and an unprecedented downturn in the housing and mortgage markets have contributed to high rates of consumer bankruptcies and mortgage loan delinquency and foreclosure. Debt relief services have proliferated in recent years as the economy has declined and greater numbers of consumers hold debts they cannot pay. During the summer of 2010, the Commission issued a final rule amending the Telemarketing Sales Rule to address the telemarketing of debt relief services offered to consumers.[5] The amendments are necessary to protect consumers from deceptive or abusive practices in the telemarketing of debt relief services.

The recent national mortgage crisis has launched an industry of companies purporting, for a fee, to obtain mortgage loan modifications or other relief for consumers facing foreclosure. The Commission and other law enforcement have also taken action against mortgage companies that harm consumers through their advertising and servicing practices. The Commission initiated active rulemakings to protect distressed homeowners, one relating to Mortgage Assistance Relief Services (''MARS'') and another relating to Mortgage Acts and Practices (''MAP'') through the life cycle of the mortgage loan.[6] The MAP proceeding has since been split into rulemakings on MAP-Advertising and MAP-Servicing.

In February 2009, the FTC issued ''Collecting Consumer Debts: The Challenges of Change.''[7] The report noted that the FTC lacked sufficient information on debt collection proceedings. In the summer and fall of 2009, the Commission convened three public roundtables at which it examined consumer protection issues involving

[1]For example, the Fair Credit Reporting Act (15 U.S.C. sections 1681 to 1681(u), as amended) and the Gramm-Leach-Bliley Act (Pub. L.106-102, 113 Stat.1338, codified in relevant part at 15 U.S.C. sections 6801 to 6809 and sections 6821 to 6827, as amended).

[2]For example, the Energy Policy Act of 1992 (106 Stat. 2776, codified in scattered sections of the U.S. Code, particularly 42 U.S.C. section 6201 et seq. and the Energy Independence and Security Act of 2007 (EISA).

[3]The FTC also prepares a number of annual and periodic reports on the statutes it administers. These are not discussed in this plan.

[4]This report can be found at http://www.ftc.gov/os/2010/01/100112payfordelayrpt.pdf.

[5]Go to Final Actions and see *Debt Relief Services TSR Rule.*

[6]Go to Rulemakings and Studies Required by Statute and see *Mortgage Loans Rule.*

[7]This can be found at http://www.ftc.gov/bcp/workshops/debtcollection/dcwr.pdf.

debt collections, both in litigation and arbitration proceedings.

In July 2010, the Commission issued a report entitled ''Repairing a Broken System: Protecting Consumers in Debt Collection Litigation and Arbitration.''[8] The report concluded that the system for resolving consumer debt collection disputes is broken and recommended significant litigation and arbitration reforms to improve efficiency and fairness to consumers. The Commission's principal recommendations to address these concerns in litigation included requiring States to adopt measures to make it more likely that consumers will defend themselves in litigation and taking steps to make it less likely that collectors will sue on debt on which the statute of limitations has run, as well as changing Federal and State laws to prevent the freezing of a specified amount in a bank account including funds exempt from garnishment. The report also addresses concerns about requiring consumers to resolve debt collection disputes through binding arbitration without meaningful choice, bias, or the appearance of bias in arbitration proceedings, and procedural unfairness in arbitration proceedings.

(c) Privacy Challenges to Consumers Posed by Technology and Business Practices. The Commission is exploring the privacy challenges posed by technological and business practices that collect and use consumer data. The FTC has held three public roundtables[9] at which it considered the following issues:

- On December 7, 2009, the FTC focused on the benefits and risks of information-sharing practices, consumer expectations regarding such practices, behavioral advertising, information brokers, and the adequacy of existing legal and self-regulatory frameworks.
- The second roundtable on January 28, 2010, focused on how technology affects consumer privacy, including its role in both raising privacy concerns and enhancing privacy protections and included specific discussions on cloud computing, mobile computing, and social networking.
- On March 17, 2010, a third roundtable addressed Internet architecture and privacy issues, health and other sensitive consumer information, and lessons that have been learned from the three roundtables and possible ways forward.

The Commission accepted written comments and original research in connection with all three workshops. The Commission expects to release recommendations for public comment during the latter part of 2010.

(d) Food Marketing to Children. In 2008, the FTC issued a report entitled ''Marketing Food to Children and Adolescents: A Review of Industry Expenditures, Activities, and Self-Regulation.''[10] As a followup to this report, the Commission held a forum on December 15, 2009, where participants presented new research on the impact of various food advertising techniques on children, discuss the statutory and constitutional issues surrounding governmental regulation of food marketing, and addressed the food and entertainment industries' self-regulatory efforts and implementation of the recommendations in the FTC's 2008 report. The Commission is also a member of an Interagency Working Group on Food Marketed to Children, composed of members of the FTC, the Food and Drug Administration, the Centers for Disease Control and Prevention, and the Department of Agriculture. The working group was established in response to a provision in the FY 2009 Omnibus Appropriations Act (H.R. 1105) and is charged with conducting a study and developing recommendations for nutritional standards for foods marketed to children ages 17 and under. During the fall of 2010, the agencies plan to seek comments on proposed nutrition and marketing standards. Findings and recommendations will be submitted in a report to Congress.

Following receipt of OMB approval on July 8, 2010, on August 12, 2010, the Commission issued information requests to 48 major food and beverage manufacturers, distributors, and marketers, as well as quick-service restaurant companies, about spending and marketing activities targeting children and adolescents and nutritional information for food and beverage products that the companies market to these consumers. The study will advance the Commission's efforts to understand how food industry promotional dollars targeted to children and adolescents are allocated, the types of activities and marketing techniques the food industry uses to market its products to children and adolescents, and the extent to which self-regulatory efforts are succeeding in improving the nutritional quality of foods advertised to children and adolescents.

(e) Other Children's Initiatives. On December 16, 2009, the Commission, along with other Government agencies, released a cybersafety booklet, ''Net Cetera: Chatting with Kids About Being Online.''[11] This publication provides information to parents and teachers about how to talk to kids about issues like cyberbullying, sexting, mobile phone safety, and protecting the family computer. As of September 12, 2010, the Commission had distributed 4.4 million copies of the English language version and 462,000 copies of the Spanish language version of this publication, as well as 2.7 million related bookmarks.

In the fall of 2009, the Commission contributed a report to the White House Council on Women and Girls.[12] The report highlights five areas, describing, for each, recent FTC law enforcement actions or policy initiatives, as well as available consumer and business education materials. The areas are health care for women and children, marketing to children and adolescents, consumer credit, entrepreneurship and business opportunities, and family pocketbook issues.

On April 28, 2010, the Commission launched ''Admongo,'' a campaign to raise advertising literacy among the Nation's youth. The campaign is targeted to ''tweens'' aged 8 to 12, and includes a game-based website at Admongo.gov, a curriculum tied to national standards of learning in language arts and social studies that teachers can use to ''ad-ucate'' students, a library of fictional ads that can be used as teaching tools, and activities for parents and kids to do together. All these materials are free and in the public domain.

Regarding the marketing of violent entertainment to children, the Commission continues to encourage industry groups to improve their self-regulatory programs to discourage the marketing to children of movies, games, and music that the industries' rating or labeling systems indicate are inappropriate for children or warrant parental caution due to their violent

[8] The report is available at http://www.ftc.gov/os/2010/07/debtcollectionreport.pdf.

[9] See http://www.ftc.gov/bcp/workshops/privacyroundtables/index.shtml.

[10] The report is available at http://www.ftc.gov/os/2008/07/P064504foodmktingreport.pdf.

[11] The booklet can be accessed at http://www.onguardonline.gov/pdf/tec04.pdf.

[12] The report is available at http://www.ftc.gov/os/2010/05/100528cwg-rpt.pdf.

content. Since the FTC issued its first report on marketing violent entertainment to children in 2000, the Agency has called on the entertainment industry to be more vigilant in three areas: Restricting the marketing of mature-rated products to children, clearly and prominently disclosing rating information, and restricting children's access to mature-rated products at retail.

The FTC's seventh and most recent report concluded that marketers of violent music, movies, and video games can do more to restrict the promotion of these products to children.[13] This latest report found areas for improvement among music, movie, and video game marketers but credited the game industry with outpacing the other two industries in all three areas. Since 1999, the Commission has issued seven reports on these three industries, examining the industries' compliance with their own voluntary marketing guidelines.

Regarding advertising for beverage alcohol products, the Commission issued on September 8, 2010, orders requiring three mid-sized suppliers to provide information about advertising and marketing practices and compliance with self-regulatory guidelines. In the coming year, the Commission will review the three companies' responses and consult with these companies in light of the information provided. This procedure is consistent with a 2008 commitment by the Commission to conduct small studies of industry self-regulation in years when no major study was underway. Further, in early 2011, the Commission will begin the process of seeking Office of Management and Budget approval, under the Paperwork Reduction Act, to conduct another major study of alcohol marketing and self-regulation; that study will evaluate the advertising practices of the major alcohol suppliers. The Commission will also continue to promote the ''We Don't Serve Teens'' consumer education program, supporting the legal drinking age.[14]

(f) Horizontal Merger Guidelines. In December 2009 and January 2010, the Commission and the Department of Justice (DOJ) solicited public comments and held five joint public workshops to explore the possibility of updating the Horizontal Merger Guidelines that are used by both agencies to evaluate the potential competitive effects of mergers and acquisitions. On April 20, 2010, the Commission released for public comment proposed revisions to the guidelines designed to more accurately reflect the way the FTC and DOJ currently conduct merger reviews. The comment period was extended through June 4, 2010, at the request of several organizations that planned to submit comments.

On August 19, 2010, the two agencies issued revised Horizontal Merger Guidelines, marking the first major revision of the merger guidelines in 18 years and giving businesses a better understanding of how the agencies evaluate proposed mergers. A primary goal of the 2010 guidelines is to help the agencies identify and challenge competitively harmful mergers while avoiding unnecessary interference with mergers that either are competitively beneficial or likely will have no competitive impact on the marketplace. To accomplish this, the guidelines detail the techniques and main types of evidence the agencies typically use to predict whether horizontal mergers may substantially lessen competition. The updated guidelines are available on the FTC's website at http://www.ftc.gov/os/2010/08/100819hmg.pdf and the DOJ's website at http://www.justice.gov/atr/public/guidelines/hmg-2010.html.

(g) *Fraud Forum Report and Surveys.* The FTC hosted a ''Fraud Forum'' on February 25-26, 2009. The first day was open to the public and addressed the many aspects of fraud today. The second day was open only to domestic and international law enforcement officials and focused on improving interagency coordination in consumer fraud cases. In December 2009, the FTC staff issued a ''Fraud Forum'' report.[15] The report recommended extending the FTC's outreach to under-served communities, improving victim assistance, combating fraud by enlisting the help of third-parties and targeting third-party enablers and facilitators, expanding contributors to the FTC's Consumer Sentinel database, and making data available to law enforcers.

Separately, the FTC, through its Bureau of Economics, will continue to conduct fraud surveys and related research on consumer susceptibility to fraud. For example, pending approval from the Office of Management and Budget, the FTC will conduct an exploratory study during 2011 on consumer susceptibility to fraudulent and deceptive marketing. This research would be conducted to further the FTC's mission of protecting consumers from unfair and deceptive marketing. It is the first of two such studies that the FTC anticipates conducting. Should the FTC pursue the second study, it will seek clearance for it at the appropriate later time. The study is not intended to lead to enforcement actions; rather, study results may aid the FTC's efforts to better target its enforcement actions and consumer education initiatives, and improve future fraud surveys.

(h) Protecting Consumers from Cross-Border Harm. In December 2009, the Commission issued a report examining how the Agency has used the expanded law enforcement authority Congress provided in the U.S. SAFE WEB Act to protect American consumers.[16] This statute authorizes the FTC to share information and work cooperatively with foreign law enforcement agencies to protect consumers from cross-border harm. The report ''The U.S. SAFE WEB Act: The First Three Years''[17] provides data on the number of cross-border complaints received by the Commission and a description of specific cases in which the FTC has worked cooperatively with foreign agencies. The Commission recommends that Congress take action to repeal a ''sunset'' provision that would cause the act to expire in 2013.

On May 6-7, 2010, as part of its ongoing effort to combat cross-border fraud, the Commission hosted counterparts from more than 40 countries to discuss enforcement strategies and emerging consumer protection issues. Agenda topics include decentralized global scams, electronic transactions, emerging trends and risks associated with social networking sites, and advance-fee fraud. During the conference, the FTC and participants in the International Consumer Protection Enforcement Network launched an updated version of the econsumer.gov website, a portal for consumers to file cross-border complaints and find

[13] For the most recent report, see ''Federal Trade Commission, Marketing Violent Entertainment to Children: A Sixth Follow-Up Review of Industry Practices in the Motion Picture, Music Recording and Electronic Game Industries a Report to Congress'' (Dec. 2009), available at http://www.ftc.gov/os/2009/12/P994511violententertainment.pdf.

[14] More information can be found at http://www.dontserveteens.gov/.

[15] The report is available at http://www.ftc.gov/os/2009/12/091229fraudstaffreport.pdf.

[16] The formal title of the act is the ''Undertaking Spam, Spyware, and Fraud Enforcement with Enforcers Beyond Borders Act of 2006'' (Pub. L. No. 109-455, amending the FTC Act, 15 U.S.C. sections 41 *et seq.*).

[17] This report can be found at http://www.ftc.gov/os/2009/12/P035303safewebact2009.pdf.

information about possible ways to resolve their complaints.

(i) Journalism and the Internet. The FTC hosted a series of three workshops entitled ''From Town Criers to Bloggers: How Will Journalism Survive the Internet Age?'' The workshops considered the following issues.

- The December 1-2, 2009, workshop broadly considered the economics of journalism; the wide variety of new business and non-profit models for journalism; the financial, technological, and other challenges facing the news industry; and a variety of Government policies, including antitrust, copyright, and tax policy, bearing on journalism.
- The second workshop, held on March 9-10, 2010, addressed proposals by workshop participants to better support and lower the costs of journalism. The topics included changes to copyright, tax, and other laws; the potential advantages and disadvantages of combining the interests of for-profit and non-profit investors in hybrid entities; efforts to make Government data more accessible and easily managed in ways that may lower the costs of journalism; and collaborations that news organizations may use to lower their costs and better support journalism.
- On June 15, 2010, the FTC held its final workshop at which experienced journalists, publishers, academics, economists, and other policy experts compared, contrasted, and evaluated the ideas for sustaining journalism that have been set forth by participants in the previous workshops and in a wide variety of reports and conferences. In connection with the third workshop, the FTC staff prepared and posted a discussion draft summarizing the state of journalism today and setting forth the proposals made to date. The document was designed to prompt discussion of whether to recommend policy changes and, if so, which specific proposals would be most useful, feasible, platform-neutral, resistant to bias, and unlikely to cause unintended consequences in addressing emerging gaps in news coverage.

The Commission has received comments in connection with its workshops and intends to release a report during the fall of 2010.

(j) Intellectual Property. The Commission held a series of five hearings on the ''Evolving Intellectual Property (IP) Marketplace.'' The hearings generally focused on examining changes in intellectual property law, patent-related business models, and new information regarding the operation of the IP marketplace since the issuance of the FTC's October 2003 report, '' To Promote Innovation: The Proper Balance of Competition and Patent Law and Policy.''

- Overview Hearing. On December 5, 2008, three panels provided an overview of developing business models, recent and proposed changes in IP remedies law, and changes in legal doctrines affecting the value and licensing of patents.
- Remedies. On February 11-12, 2009, the Commission held hearings on damages in patent cases and changes in permanent injunction and willful infringement standards in the wake of recent court decisions.
- Operation of IP Markets. The hearings on March 18-19, 2009, explored how different industries use patents, the economic and legal perspectives on IP and technology markets, and the notice role of patents.
- Markets for Intellectual Property. This April 17, 2009, hearing addressed new business models in the IP market; strategies for buying, selling, and licensing patents; and the role of secondary markets.
- Industry Focus. A May 4-5, 2009, hearing, held in conjunction with the Berkeley Center for Law and Technology and the Berkeley Center for Competition Policy, focused on how markets for patents and technology operate in different industries and how patent policy might be adjusted to respond to problems and better promote innovation and competition.

The Commission is working on a report related to these hearings.

(k) Patent and Competition Policy: Implications for Promoting Innovation. The FTC, the DOJ, and the Department of Commerce's U.S. Patent and Trademark Office held a joint public workshop on May 26, 2010, to explore the intersection of patent policy and competition policy and its implications for promoting innovation. The workshop addressed ways in which careful calibration and balancing of patent policy and competition policy can best promote incentives to innovate.

(l) Self-Regulatory and Compliance Initiatives with Industry.

Additionally, in the industry self-regulation area, the Commission continues to apply the Textile Corporate Leniency Policy Statement for minor and inadvertent violations of the Textile or Wool Rules that are self-reported by the company. 67 FR 71566 (Dec. 2, 2002). Generally, the purpose of the Textile Corporate Leniency Policy is to help increase overall compliance with the rules while also minimizing the burden on business of correcting (through relabeling) inadvertent labeling errors that are not likely to cause injury to consumers. Since the Textile Corporate Leniency Program was announced, 177 companies have been granted ''leniency'' for self-reported minor violations of FTC textile regulations.

Finally, the Commission also has engaged industry in compliance partnerships in at least two areas involving the funeral and franchise industries. Specifically, the Commission's Funeral Rule Offender Program, conducted in partnership with the National Funeral Directors Association, is designed to educate funeral home operators found in violation of the requirements of the Funeral Rule, 16 CFR 453, so that they can meet the rule's disclosure requirements. Nearly 350 funeral homes have participated in the program since its inception in 1996. In addition, the Commission established the Franchise Rule Alternative Law Enforcement Program in partnership with the International Franchise Association (IFA), a nonprofit organization that represents both franchisors and franchisees. This program is designed to assist franchisors found to have a minor or technical violation of the Franchise Rule, 16 CFR 436, in complying with the rule. Violations involving fraud or other section 5 violations are not candidates for referral to the program. The IFA teaches the franchisor how to comply with the rule and monitors its business for a period of years. Where appropriate, the program offers franchisees the opportunity to mediate claims arising from the law violations. Since December 1998, 21 companies have agreed to participate in the program.

Effect of the Consumer Financial Protection Act of 2010

On July 21, 2010, President Obama signed into law the ''Dodd-Frank Wall Street Reform and Consumer Protection Act,'' Public Law No. 111-203. Title X of the statute, known as the Consumer Financial Protection Act of 2010 (or the Consumer Financial Protection Act), creates a new Bureau of Consumer Financial Protection within the Board of

Governors of the Federal Reserve System (''Federal Reserve Board''). Most of the Commission's rulemaking authority under certain ''enumerated consumer laws'' will be transferred to the new bureau within 6 to 18 months after enactment. These laws include all or most of the rulemaking authority under the Truth in Lending Act, the Fair Credit Reporting Act (including the Fair and Accurate Credit Transactions Act of 2003 (''FACTA'')), the Gramm-Leach-Bliley Act (''GLB Act''), the Equal Credit Opportunity Act, the Electronic Funds Transfer Act, the Federal Deposit Insurance Corporation Improvement Act of 1991 (''FDICIA''), and the Omnibus Appropriations Act of 2009. While the FTC retains its general authority to conduct research and studies, it loses some of its authority to conduct studies under an ''enumerated consumer law.'' The Act also expands the Commission's authority in certain areas—for example, with regard to automobile dealers. The impact of the Consumer Financial Protection Act on the Commission's rulemakings, studies, and guidelines is discussed below.

Rulemakings and Studies Required by Statute

The Congress has enacted laws requiring the Commission to undertake rulemakings and studies. This section discusses required rules and studies. The Final Actions section below describes actions taken on the required rulemakings and studies since the 2009 Regulatory Plan was published.

FACTA Rules. The Commission has already issued nearly all of the rules required by FACTA. These rules are codified in several parts of 16 CFR 600 *et seq.* The remaining active FACTA rulemakings are:

1. Furnisher Rules. On July 1, 2009, the Commission and other Federal agencies issued an advance notice of proposed rulemaking (''ANPRM'') that seeks to obtain information that would assist in determining whether it would be appropriate to propose an addition to one of the guidelines that would delineate the circumstances under which a furnisher would be expected to provide an account opening date, or any other types of information, to a consumer reporting agency to promote the integrity of the information. 74 FR 31529. The comment period closed on August 31, 2009.
2. Model Forms. The Fair Credit Reporting Act (the ''FCRA'') requires the Commission to prescribe a model summary of consumers' rights under the FCRA and notices of responsibilities for users and furnishers of credit report information distributed by the consumer reporting agencies. The FTC originally issued these model notices in 1997 and issued revisions in 2004 to reflect FACTA changes. On August 6, 2010, the Commission issued proposed revisions to these models to reflect new rules that have been finalized under FACTA and to improve the clarity and usefulness of the documents. The comment period closed on September 21, 2010. The Commission anticipates that it will publish final revised forms no later than February 2011.

These rulemakings are affected by the Consumer Financial Protection Act, which provides that the Federal Reserve Board's Bureau of Consumer Financial Protection assumes responsibility for these matters on July 21, 2011 (the ''designated transfer date'' as determined by the Secretary of the Treasury).

FACTA Studies. On March 27, 2009, the Commission issued Amended Orders to File a Special Report amending the compulsory process resolution dated May 16, 2008, entitled ''Resolution Directing Use of Compulsory Process To Study the Effects of Credit Scores and Credit-Based Insurance Scores Under Section 215 of the FACT Act.'' This Amended Order requires certain insurance companies to produce information for a study on the use and effect of credit-based insurance scores on consumers of homeowner's insurance. The Amended Orders were served on nine of the largest private providers of homeowner's insurance on or about April 6, 2009. The insurers have submitted responses to the requests. This study is not affected by the Consumer Financial Protection Act. Staff continues to review the data produced by the insurers and expects to identify a sample set of data to be used for the study by late fall 2010.

The FTC is also conducting a national study of the accuracy of consumer reports in connection with section 319 of the FACTA. This study is a follow-up to the Commission's two previous pilot studies that were undertaken to evaluate a potential design for a national study. Section 319 requires the FTC to study the accuracy and completeness of information in consumers' credit reports and to consider methods for improving the accuracy and completeness of such information. Section 319 of the Act also requires the Commission to issue a series of biennial reports to Congress over a period of 11 years.[18] This study is also not affected by the Consumer Financial Protection Act.

Mortgage Loans Rule. Section 626 of the Omnibus Appropriations Act of 2009 directed the Commission to initiate a rulemaking proceeding with respect to mortgage loans and prescribed that any violation of the rule shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act regarding unfair or deceptive acts or practices. On June 1, 2009, the Commission published an ANPRM in two parts: (1) Mortgage Acts and Practices (''MAP'') through the life cycle of the mortgage loan (i.e., loan advertising, marketing, origination, appraisals, and servicing), 74 FR 26118, and (2) Mortgage Assistance Relief Services (''MARS'') (i.e., practices of entities providing assistance to consumers in modifying mortgage loans or avoiding foreclosure), 74 FR 26130. The Commission issued an NPRM for MAP-Advertising on September 30, 2010 (74 FR 60352) and the comment period closes on November 15, 2010. The Commission anticipates issuing an NPRM for MAP-Servicing during early 2011. The Commission's rulemaking authority in this area will be transferred on July 21, 2011, to the Bureau of Consumer Financial Protection under the provisions of the Consumer Financial Protection Act.

The Commission issued an NPRM in the MARS rulemaking on March 9, 2010. 75 FR 10707. The proposed rule would prohibit providers of these services from making false or misleading claims; mandate that providers disclose certain information about these services; bar the collection of advance fees for these services; prohibit persons from providing substantial assistance or support to an entity they know or consciously avoid knowing is engaged in a violation of these Rules; and impose recordkeeping and compliance requirements. The Commission plans to issue a final MARS rule by the end of 2010.

Emergency Technology for Use with ATMs. Section 508 of the ''Credit Card Accountability Responsibility and Disclosure Act of 2009'' (''Credit CARD Act''), Public Law No. 111-24, mandates

[18] Reports to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003, Federal Trade Commission, December 2006 and 2008. The reports may be accessed at the FTC's Web site. December 2006 Report: (http://www.ftc.gov/reports/FACTACT/FACT__Act__Report__2006.pdf); December 2008 Report: (http://www.ftc.gov/opa/2008/12/factareport.shtm).

that the Commission prepare a report on emergency PIN and alarm button devices at automated teller machines (ATMs) to automatically alert police about crimes at ATMs. The report entitled ''Report on Emergency Technology for Use with ATMs'' was issued in April 2010.[19] The report discusses the available information about crimes at ATMs and the costs and benefits of the emergency technologies specified in the act.

Do Not Call Report. Section 4(b) of the ''Do-Not-Call Registry Fee Extension Act of 2007'' (''Fee Extension Act''), Public Law 110-188, directs the FTC, in consultation with the Federal Communications Commission, to submit a report to Congress on the effectiveness of do-not-call (''DNC'') outreach and enforcement efforts with regard to senior citizens and immigrant communities, the impact of the exceptions to the DNC registry on businesses and consumers, and the impact of abandoned calls made by predictive dialing devices on DNC enforcement. The report, which was submitted to Congress in December 2009, discusses these issues, related changes to the FTC's Telemarketing Sales Rule, and the enforcement initiatives of both agencies.[20]

Ten-Year Review Program and Calendar Year 2009 to 2010 Reviews

In 1992, the Commission implemented a program to review its rules and guides regularly. The Commission's review program is patterned after provisions in the Regulatory Flexibility Act, 5 U.S.C. 601 to 612. Under the Commission's program, rules have been reviewed on a 10-year schedule as resources permit. For many rules, this has resulted in more frequent reviews than is generally required by section 610 of the Regulatory Flexibility Act. This program is also broader than the review contemplated under the Regulatory Flexibility Act, in that it provides the Commission with an ongoing systematic approach for seeking information about the costs and benefits of its rules and guides and whether there are changes that could minimize any adverse economic effects, not just a ''significant economic impact upon a substantial number of small entities.'' 5 U.S.C. 610. The program's goal is to ensure that all of the Commission's rules and guides remain in the public interest. It complies with the Small Business Regulatory Enforcement Act of 1996, Public Law No. 104-121. This program is consistent with the Administration's ''smart'' regulation agenda to streamline regulations and reporting requirements and section 5(a) of Executive Order 12866, 58 FR 51735 (Sep. 30, 1993).

As part of its continuing 10-year review plan, the Commission examines the effect of rules and guides on small businesses and on the marketplace in general. These reviews may lead to the revision or rescission of rules and guides to ensure that the Commission's consumer protection and competition goals are achieved efficiently and at the least cost to business. In a number of instances, the Commission has determined that existing rules and guides were no longer necessary nor in the public interest. Most of the matters currently under review pertain to consumer protection and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions.

In March 2010, the Commission determined that it would initiate three reviews. 74 FR 12715. On April 5, 2010, the Commission initiated an additional review for the Children's Online Privacy Protection Rule. Discussion of these four reviews follows.

Children's Online Privacy Protection Rule(''COPPA Rule''), 16 CFR 312. The COPPA Rule requires commercial websites and online service providers (operators), with certain exceptions, to obtain verifiable parental consent before collecting, using, or disclosing personal information from or about children under the age of 13. An operator must make reasonable efforts, in light of available technology, to ensure that the person providing consent is the child's parent. The Commission issued an ANPRM requesting comments on the economic impact and benefits of the rule; possible conflict between the rule and other Federal, State, and local laws and regulations; and the effect on the rule of technological, economic, and other industry changes. 75 FR 17089. The Commission held a public roundtable on the rule on June 2, 2010; and the comment period, as extended, ended on July 12, 2010. Staff anticipates sending a recommendation for next action to the Commission by the end of 2010.

Rule on Retail Food Store Advertising and Marketing Practices(''Unavailability Rule''), 16 CFR 424. The Unavailability Rule states that it is a violation of section 5 of the Federal Trade Commission Act for retail stores of food, groceries, or other merchandise to advertise products for sale at a stated price if those stores do not have the advertised products in stock and readily available to customers during the effective period of the advertisement, unless the advertisement clearly discloses that supplies of the advertised products are limited or are available only at some outlets. The rule is intended to benefit consumers by ensuring that advertised items are available, that advertising-induced purchasing trips are not fruitless, and that store prices accurately reflect the prices appearing in the ads. Staff is reviewing the rule and intends to forward a recommendation to the Commission before the end of 2010.

Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles Rule(''Alternative Fuel Rule''), 16 CFR 309. The Alternative Fuel Rule, which became effective on November 20, 1995, and was last reviewed in 2004, requires disclosure of appropriate cost and benefit information to enable consumers to make reasonable purchasing choices and comparisons between non-liquid alternative fuels as well as alternative-fueled vehicles. By November 2010, staff anticipates that the Commission will request comments on the rule.

Preservation of Consumers' Claims and Defenses Rule(''Holder-in-Due Course Rule''), 16 CFR 433. Issued in 1975, the Holder-in-Due Course Rule requires sellers to include language in consumer credit contracts that preserves consumers' claims and defenses against the seller. This rule eliminated the holder-in-due course doctrine as a legal defense for separating a consumer's obligation to pay from the seller's duty to perform by requiring that consumer credit and loan contracts contain one of two clauses to preserve the buyer's right to assert sales-related claims and defenses against a ''holder'' of the contracts. This rule was initially scheduled to be reviewed during 2010 as part of the periodic review process. However, that prospective review has been put on hold until the Commission can consult with the new Bureau of Consumer Financial Protection that was created pursuant to the Consumer Financial Protection Act about Holder in Due Course issues.

Ongoing Reviews

Since the publication of the 2009 Regulatory Plan, the Commission has

[19] The report is available at http://www.ftc.gov/os/2010/05/100504creditcardreport.pdf.

[20] This report can be found at http://www.ftc.gov/os/2010/01/100104dncadditionalreport.pdf. At that time, the Commission also released a biennial report discussing the National DNC Registry.

initiated three new rulemaking proceedings and is continuing review of a number of rules and guides. The new rulemaking proceedings are discussed first under *(a)* Rules, followed by the other rule reviews, and then *(b)* Guides.

(a) Rules

Mail Order Rule. The Mail Order Rule, 16 CFR 435, requires that, when sellers advertise merchandise, they must have a reasonable basis for stating or implying that they can ship within a certain time. The Commission sought comments about non-substantive changes to the rule to bring it into conformity with changing conditions; including consumers' usage of means other than the telephone to access the Internet when ordering, consumers paying for merchandise by demand draft or debit card, and merchants using alternative methods to make prompt rule-required refunds. 72 FR 51728 (Sep. 11, 2007). Staff has reviewed the comments and anticipates sending a recommendation to the Commission by the end of 2010.

Business Opportunity Rule. The proposed Business Opportunity Rule stems from the recently concluded review of the Franchise Rule, where staff recommended that the rule be split into two parts: One part addressing franchise issues (16 CFR 436) and another part addressing business opportunity issues (16 CFR 437).[21] After reviewing the comments from an NPRM, 71 FR 19054 (Apr. 12, 2006), the Commission issued a revised NPRM on March 26, 2008, that would require business opportunity sellers to furnish prospective purchasers with specific information that is material to the consumer's decision as to whether to purchase a business opportunity and which should help the purchaser identify fraudulent offerings. 73 FR 16110. The revised NPRM comment period ended on May 27, 2008, and the rebuttal comment period ended on June 16, 2008. A public workshop was held on June 1, 2009, to explore changes to the proposed rule and a related comment period closed on June 30, 2009. On October 28, 2010, the Commission released a staff report[22] recommending that coverage of the Business Opportunity Rule be expanded to include work-at-home opportunities such as envelope stuffing, medical billing, and product assembly, many of which have not been covered before. FTC staff also recommends streamlining the disclosures require by the business opportunity rule so that companies or individuals selling business opportunities make important disclosures to consumers on a simple, easy-to-read document. If adopted, the changes will make it less burdensome for legitimate sellers to comply with the Rule, while still protecting consumers from ''widespread and persistent'' business opportunity fraud. Public comments on the staff report will be accepted until January 18, 2011.

Hart-Scott-Rodino Rules. For the Hart-Scott-Rodino Premerger Notification Rules (HSR Rules), 16 CFR 801 to 803, Bureau of Competition staff is continuing to review various HSR Rule provisions. On August 13, 2010, the Commission announced it was seeking public comments on proposed changes designed to streamline the HSR form and focus on the information most needed by the agencies in their initial merger review. 75 FR 57110. The proposal eliminates requests for unnecessary information. The new form, however, would require additional information that is needed to help the FTC and DOJ during their initial review of transactions. The comment period closed on October 18, 2010.

Used Car Rule. The Used Motor Vehicle Trade Regulation Rule (''Used Car Rule''), 16 CFR 455, sets out the general duties of a used vehicle dealer, requires that a completed Buyers Guide be posted at all times on the side window of each used car a dealer offers for sale, and mandates disclosure of whether the vehicle is covered by a warranty and, if so, the type and duration of the warranty coverage, or whether the vehicle is being sold ''as is—no warranty.'' The Commission published a notice seeking public comments on the effectiveness and impact of the rule. 73 FR 42285 (Jul. 21, 2008). The notice seeks comments on a range of issues including, among others, whether a bilingual Buyers Guide would be useful or practicable, as well as what form such a Buyers Guide should take. Second, the notice seeks comments on possible changes to the Buyers Guide that reflect new warranty products, such as certified used car warranties, that have become increasingly popular since the rule was last reviewed. Finally, the notice seeks comments on other issues including the continuing need for the rule and its economic impact, the effect of the rule on deception in the used car market, and the rule's interaction with other regulations. The comment period, as extended and then reopened, ended on June 15, 2009. Staff anticipates sending a recommendation to the Commission by November 2010.

Cooling-Off Rule. The Cooling-Off Rule requires that a consumer be given a 3-day right to cancel certain sales greater than $25.00 that occur at a place other than a seller's place of business. The rule also requires a seller to notify buyers orally of the right to cancel; to provide buyers with a dated receipt or copy of the contract containing the name and address of the seller and notice of cancellation rights; and to provide buyers with forms which buyers may use to cancel the contract. An ANPRM seeking comment was published on April 21, 2009. 74 FR 18170. The comment period was supposed to close on June 22, 2009, but was extended to September 25, 2009. 74 FR 36972 (Jul. 27, 2009). Staff is reviewing comments as they are received and expects to prepare a recommendation for the Commission by the end of 2010.

Fuel Ratings Rule. The Fuel Ratings Rule sets out a uniform method for determining the octane rating of gasoline from the refiner through the chain of distribution to the point of retail sale. The rule enables consumers to buy gasoline with an appropriate octane rating for their vehicle and establishes standard procedures for determining, certifying, and posting octane ratings. On March 3, 2009, the Commission published an ANPRM and requested comments on the rule as part of its systematic periodic review of current rules and guides. 74 FR 9054. On March 16, 2010, the Commission issued an NPRM proposing to adopt rating, certification, and labeling requirements for certain ethanol fuels; revise the labeling requirements for fuels with at least 70 percent ethanol; and allow the use of an alternative octane rating method. 75 FR 12470. The comment period has ended. Staff anticipates that the Commission will issue a final rule by the end of 2010.

Negative Option Rule. The Negative Option Rule governs the operation of prenotification subscription plans. Under these plans, sellers ship merchandise automatically to their subscribers and bill them for the merchandise within a prescribed time. The rule protects consumers by requiring the disclosure of the terms of membership clearly and conspicuously and establishes procedures for administering the subscription plans. An ANPRM was published on May 14,

[21] Pending completion of the proceeding initiated with this notice, business opportunities presently covered by the requirements of the original Rule will remain covered, as set forth as part 437 of the final amended Rule. 72 FR 15444 (March 30, 2007).

[22] The report is available at http://www.ftc.gov/opa/2010/10.businessopp.shtm

2009, 74 FR 22720, and the comment period closed on July 27, 2009. On August 7, 2009, the Commission reopened and extended the comment period until October 13, 2009. 74 FR 40121. Staff anticipates sending a recommendation to the Commission by December 2010.

Pay-Per-Call Rule. The Commission's review of the Pay-Per-Call Rule, 16 CFR 308, is continuing. The Commission has held workshops to discuss proposed amendments to this rule, including provisions to combat telephone bill ''cramming''—inserting unauthorized charges on consumers' phone bills—and other abuses in the sale of products and services that are billed to the telephone including voicemail, 900-number services, and other telephone based information and entertainment services. The most recent workshop focused on the use of 800 and other toll-free numbers to offer pay-per-call services, the scope of the rule, the dispute resolution process, the requirements for a pre-subscription agreement, and the need for obtaining express authorization from consumers before placing charges on their telephone bills. The review record has remained open to encourage additional comments on expansion of the rule's coverage. Staff expects to prepare a recommendation for the Commission by December 2011.

(b) Guides

Fuel Economy Guide. The Fuel Economy Guide for new automobiles, 16 CFR 259, was adopted in 1975 to prevent deceptive fuel economy advertising and to facilitate the use of fuel economy information in advertising. As part of its regular review of all rules and guides, the Commission issued a request for comments on May 9, 2007, on whether to retain or amend the guide. 72 FR 26328. The Commission sought comments on, among other things, whether there is a continuing need for the guide and, if so, what changes should be made to it, if any, in light of Environmental Protection Agency amendments to fuel economy labeling requirements for automobiles. On April 28, 2009, the Commission published proposed amendments to the Guide. 74 FR 19148. The deadline for comments was June 16, 2009. Staff is reviewing the comments and expects to make a recommendation by the end of 2010.

Green Guides. The Green Guides, 16 CFR 260, outline general principles that apply to all environmental marketing claims and provide guidance regarding specific environmental claims. The Commission sought comment on the need for the guides and their economic impact, the effect of the guides on the accuracy of various environmental claims, and the interaction of the guides with other environmental marketing regulations. 72 FR 66091 (Nov. 27, 2007). As part of its review, during 2008, the Commission held workshops and received comments in three specific areas: 1) Carbon offsets and renewable energy certificates (Jan. 8, 2008); 2) environmental packaging claims and green packaging (Apr. 30, 2008); and 3) developments in green building and textiles claims and consumer perception of such claims (Jul. 15, 2008). After reviewing the , the transcripts of the three public workshops that explored the emerging issues, and the results of its additional consumer perception research, the Commission proposed on October 15, 2010, several modifications and additions to the Guides that aim to respond to changes in the marketplace and help marketers avoid making unfair or deceptive environmental marketing claims. 75 FR 63552. The proposed changes to the Green Guides include new guidance on marketers' use of product certifications and seals of approval, ''renewable energy'' claims, ''renewable materials'' claims, and ''carbon offset'' claims. The Commission seeks public comment by December 10, 2010.

Fair Debt Collection Practices Act (FDCPA) Enforcement Policy Statement Regarding Communications in Connection With Collection of a Decedent's Debt. The Commission requests public comment on a proposed statement of enforcement policy regarding communications in connection with collection of a decedent's debts. The statement addresses three issues pertaining to debt collectors who attempt to collect on the debts of deceased debtors. First, the proposed statement announces that the FTC will not bring enforcement actions for violations of Section 805(b) of the FDCPA, 15 USC, 1692c(b), against collectors, who, in connection with the collection of a decedent's debt, communicate with a person who has authority to pay the decedent's debt from the assets of the decedent's estate. Second, the proposed statement clarifies how a debt collector may locate the appropriate person with whom to discuss the decedent's debt. Third, the proposed statement emphasizes to collectors that misleading consumers about their personal obligation to pay a decedent's debt is a violation of the FDCPA and Section 5 of the FTC Act, 15 USC 45. Public comments must be received by November 8, 2010.

Vocational Schools Guides. The Commission is seeking public comments on its Private Vocational and Distance Education Schools Guides, commonly known as the Vocational Schools Guides. 74 FR 37973 (Jul. 30, 2009). Issued in 1972 and most recently amended in 1998 to add a provision addressing misrepresentations related to post-graduation employment, the guides advise businesses offering vocational training courses—either on the school's premises or through distance education, such as correspondence courses or the Internet—how to avoid unfair and deceptive practices in the advertising, marketing, or sale of their courses. The comment period closed on October 16, 2009. Staff is reviewing comments and anticipates sending a recommendation for next action to the Commission by the end of 2010.

Final Actions

Since the publication of the 2009 Regulatory Plan, the Commission has issued the following final rules or taken other actions to terminate rulemaking proceedings.

Telemarketing Sales Rule (TSR) - Debt Relief Services. The Commission issued an NPRM seeking comments on a proposal to amend the TSR to address the sale of debt relief services, including: For-profit credit counselors; debt settlement companies that promise to obtain substantially reduced, lump sum settlements of consumers' debts; and debt negotiators that offer to obtain interest rate reductions or other concessions to lower consumers' monthly payments. 74 FR 41988 (Aug. 19, 2008). The comment period, as extended, closed on October 26, 2009, and the Commission held a public forum in November 2009. This rulemaking was not affected by the Consumer Financial Protection Act.

On July 29, 2010, the Commission announced a final rule providing that telemarketers of for-profit companies that sell debt relief services over the telephone may no longer charge a fee before they settle or reduce a customer's credit card or other unsecured debt. The rule also imposes conditions on accounts that debt relief companies may establish for consumers to set aside their fees and savings for payment to creditors. The rule also requires certain disclosures to consumers related to the fundamental aspects of their services (time to see results, cost) and prohibits misrepresentations related to success rates and non-profit status. With the exception of the advance fee ban which is effective October 27, 2010, the rule's

provisions are effective September 27, 2010. 75 FR 48458. On October 27, 2010, the Commission announced an enforcement policy for the TSR Debt Relief Services Rule: the Commission will defer enforcement of the new rule for tax debt relief services until further notice. The Enforcement policy states, however, that tax debt relief services must comply with the other portions of the FTS's Telemarketing Sales Rule during the enforcement deferral period. Companies that sell other kinds of debt relief services over the telephone continue to be subject to enforcement of the TSR Debt Relief Services Rule, including the prohibition against charging fees before settling or reducing a consumer's credit card or other unsecured debt.

Free Credit Reports: Deceptive Marketing Practices. Section 205 of the Credit CARD Act required the Commission to issue a rule to prevent deceptive marketing of ''free credit reports.'' On October 15, 2009, the Commission issued an NPRM to amend the Free Credit Reports Rule to require prominent disclosures in advertising for ''free credit reports'' and to address practices that interfere with consumers' ability to obtain file disclosures from consumer reporting agencies. 74 FR 52915. As required by statute, the Commission issued a final rule on February 22, 2010, which was published in the Federal Register. 75 FR 9726. With the exception of disclosure provisions related to television and radio advertisements effective September 1, 2010, the rule became effective on April 2, 2010.

FACTA Risk-Based Pricing Rule. The Commission, jointly with the Federal Reserve, published a risk-based pricing proposal for comment on May 19, 2008. 73 FR 28966. The comment period ended on August 18, 2008. Risk-based pricing refers to the practice of setting or adjusting the price and other terms of credit offered or extended to a particular consumer to reflect the risk of nonpayment by that consumer. This statutorily required rulemaking would address the form, content, time, manner, definitions, exceptions, and model of a risk-based pricing notice.

The agencies issued final rules on January 15, 2010. 75 FR 2724. The final rules generally require a creditor to provide a risk-based pricing notice to a consumer when the creditor uses a consumer report to grant or extend credit to the consumer on terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that creditor. The final rules also provide two alternative means by which creditors can determine when they are offering credit on terms that are materially less favorable and include certain exceptions to the general rule, including exceptions for creditors that a disclose a consumer's credit score in conjunction with additional information providing context for the credit score disclosure. The rules are effective January 1, 2011.

FDICIA Rule. The Federal Deposit Insurance Corporation Improvement Act of 1991 assigned to the Commission responsibilities for certain non-federally insured depository institutions (''DIs'') and private deposit insurers of such DIs. The FTC is required to prescribe, by regulation or order, the manner and content of certain disclosures required of DIs that lack Federal deposit insurance. From 1993 to 2003, the Commission was statutorily barred on an annual basis from appropriating funds for purposes of complying with FDICIA. The Consolidated Appropriations Act of 2004 and yearly appropriations thereafter have not imposed the same funding prohibition, and the Commission issued an NPRM on March 16, 2005. 70 FR 12823. Subsequently, Congress passed the Financial Services Regulatory Relief Act of 2006 (''FSRRA'') amending FDICIA and addressing several aspects of the FTC's proposed rule. A revised NPRM consistent with the FSRRA was issued on March 14, 2009. 74 FR 10843. The Commission issued a final rule on June 4, 2010, effective July 6, 2010. 75 FR 31682.

Gramm-Leach-Bliley Rule. Pursuant to section 728 of the Financial Services Relief Act of 2006, Public Law No.109-351, which added section 503(e) to the GLB Act, the Commission together with seven other Federal agencies[23] was directed to propose a model form that may be used at the option of financial institutions for the privacy notices required under GLB. The 2006 amendment provided that the agencies must propose the model form within 280 days after enactment or by April 11, 2007. On March 29, 2007, the GLB agencies issued an NPRM proposing as the model form the prototype privacy notice developed during the consumer testing research project undertaken by first six, and then seven, of these agencies. 72 FR 14940. On November 19, 2009, the Commission and the seven agencies announced a model form that financial institutions may rely on as a safe harbor to provide disclosures under the privacy rule. 74 FR 62890 at 62965-74 (amendments to FTC rules). With the exception of certain amendments effective January 1, 2012, the rules became effective December 31, 2009.

Energy Labeling Rule for Light Bulbs. Section 321 of the Energy Security and Independence Act (ESIA) required the Commission to conduct a rulemaking to consider the effectiveness of current energy labeling for light bulbs and to consider alternative labeling approaches. In response to that directive, the Commission issued an ANPRM on July 17, 2008, seeking comments on the effectiveness of current labeling requirements for lamp packages and possible alternatives to those requirements. 73 FR 40988. After reviewing the comments, the Commission issued an NPRM on November 10, 2009, proposing a two-panel labeling format for light bulb packages and mandatory disclosures including brightness, energy cost, bulb life, color appearance, wattage, and mercury content. 74 FR 57950. On July 19, 2010, the Commission issued a final rule adopting the two-panel labeling format and the brightness, energy-cost, and other disclosure requirements. 75 FR 41696. With the exception of certain amendments that will be become effective on August 18, 2010, the new labeling requirements become effective on July 19, 2011. The Commission also sought further comment by September 20, 2010, on several issues for consideration in any subsequent rulemaking.

Consumer Electronics Rule. The Commission has authority under section 325 of ESIA to promulgate energy labeling rules for consumer electronic (Consumer Electronics Rule). On March 16, 2009, the Commission published an ANPRM seeking comments on whether it should require labels for consumer electronics, including televisions, computers, video recorder boxes, and certain other equipment; the disclosures, need, and format or labels, and appropriate test procedures. 74 FR 11045. On March 11, 2010, the Commission issued an NPRM that would require EnergyGuide labels and disclose requirement for televisions. The Commission did not propose requirements for other consumer electronics but it did seek comments on the subject. 75 FR 11483. The comment period closed on May 14, 2010. As part

[23] The agencies are the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Securities and Exchange Commission, and the Commodity Futures Trading Corporation.

of this effort the Commission scheduled a public meeting on April 16, 2010. On October 27, 2010, the Commission announced it was issuing a final rule that will require televisions manufactured after May 10, 20100, to display EnergyGuide labels that include information on estimated yearly energy and the cost range compared to similar models.

Amplifier Rule. The Amplifier Rule, 16 CFR 432, assists consumers in purchasing by standardizing the measurement and disclosure of various performance attributes of power amplification equipment for home entertainment purposes. The rule makes it an unfair or deceptive act or practice for manufacturers and sellers of sound power amplification equipment for home entertainment purposes to fail to disclose certain performance information in connection with direct or indirect representations of power output, power band, frequency, or distortion characteristics. The rule also sets out standard test conditions for performing the measurements that support the required performance disclosures. On February 27, 2008, the Commission published a request for comments including a number of specific issues related to changes in technology and products. 73 FR 10403. The comment period ended on May 12, 2008. On January 26, 2010, the Commission announced it was retaining the rule as currently written but issued guidance concerning testing requirements for measuring power ratings of multichannel amplifiers. 75 FR 3985.

Smokeless Tobacco Regulations. The Commission's review of the Regulations Under the Comprehensive Smokeless Tobacco Health Education Act of 1986 (''Smokeless Tobacco Regulations''), 16 CFR 307, has been completed. The Smokeless Tobacco Regulations govern the format and display of statutorily mandated health warnings on all packages and advertisements for smokeless tobacco. On June 22, 2009, Congress enacted the ''Family Smoking Prevention and Tobacco Control Act,'' Public Law No. 111-31, which imposed new requirements for smokeless tobacco health warnings and transferred authority over these warnings to the Department of Health and Human Services. As a result, the Commission closed both the regulatory review and a separate NPRM (published in 1993). 75 FR 3664. On September 28, 2010, the Commission rescinded its smokeless tobacco regulations, concluding they no longer serve any purpose and actually conflict with the new statutory provisions. 75 FR 59609. Indeed, retention of these regulations could generate confusion if some smokeless tobacco manufacturers and importers mistakenly believe that they reflect current legal requirements.

Endorsements and Testimonials in Advertising Guides. On January 16, 2007, the Commission requested public comments on the overall costs, benefits, and regulatory and economic impact of its Guides Concerning the Use of Endorsements and Testimonials in Advertising, 16 CFR 255. The Commission also released consumer research it commissioned regarding the messages conveyed by consumer endorsements and sought comment both on this research and upon several other specific endorsement-related issues. 72 FR 2214 (Jan. 18, 2007). After reviewing the comments, the Commission proposed changes to the guides and requested public comments. 73 FR 72374 (Nov. 28, 2008). The initial comment period ended on January 30, 2009, but was subsequently extended to March 2, 2009. 74 FR 5810 (Feb. 2, 2009). On October 5, 2009, the Commission announced revisions to the guides effective December 1, 2009. 74 FR 53214. Under the revised Guides, advertisements that feature a consumer and convey his or her experience with a product or service as typical when that is not the case will be required to clearly disclose the results that consumers can generally expect. In contrast to the prior version of the Guides, which allowed advertisers to describe unusual results in a testimonial as long as they included a disclaimer such as ''results not typical,'' the revised Guides no longer contain this safe harbor. The revised Guides also add new examples (i.e., bloggers or celebrity endorsers) to illustrate the long standing principle that ''material connections'' (sometimes payments or free products) between advertisers and endorsers—connections that consumers would not expect—must be disclosed.

Guides for Jewelry, Precious Metals and Pewter Industries. After issuing a staff advisory opinion indicating that the Commission's current guidelines for Jewelry, Precious Metals and Pewter Industries, 16 CFR part 23, do not address descriptions of new platinum alloy products, the Commission issued a Request for Public Comments on Whether the platinum section of the Guides for Jewelry, Precious Metals and Pewter Industries, should be amended to provide guidance on how to non-deceptively mark or describe products containing between 500 and 850 parts per thousand pure platinum and no other platinum group metals. 70 FR (July 5. 2005). After reviewing the comments, the Commission issued a notice on February 20, 2008, seeking comment on proposals to amend the platinum section of the Guides to address the new platinum alloys. 73 FR 10190. The extended comment period ended on August 25, 2008. 73 FR 22848 (April 28, 2008).

Summary

In both content and process, the FTC's ongoing and proposed regulatory actions are consistent with the President's priorities. The actions under consideration inform and protect consumers, while minimizing the regulatory burdens on businesses. The Commission will continue working toward these goals. The Commission's 10-year review program is patterned after provisions in the Regulatory Flexibility Act and complies with the Small Business Regulatory Enforcement Fairness Act of 1996. The Commission's 10-year program also is consistent with section 5(a) of Executive Order 12866, which directs executive branch agencies to develop a plan to reevaluate periodically all of their significant existing regulations. 58 FR 51735 (Sep. 30, 1993). In addition, the final rules issued by the Commission continue to be consistent with the President's Statement of Regulatory Philosophy and Principles, Executive Order 12866, section 1(a), which directs agencies to promulgate only such regulations as are, *inter alia,* required by law or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public.

The Commission continues to identify and weigh the costs and benefits of proposed actions and possible alternative actions, and to receive the broadest practicable array of comment from affected consumers, businesses, and the public at large. In sum, the Commission's regulatory actions are aimed at efficiently and fairly promoting the ability of ''private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people.'' E.O. 12866, section 1.

II. Regulatory Actions

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or

State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

The Commission has no proposed rules that would be a ''significant regulatory action'' under the definition in Executive Order 12866.[24]

BILLING CODE 6750–01–S

[24]Section 3(f) of the Executive Order defines a regulatory action to be ''significant'' if it is likely to result in a rule that may:

NATIONAL INDIAN GAMING COMMISSION (NIGC)

Statement of Regulatory Priorities

Congress adopted the Indian Gaming Regulatory Act (IGRA) (Pub. L. 100-497, 102 Stat. 2475) in 1988. A primary purpose of the Act is to ''provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments.'' The Act established the National Indian Gaming Commission (NIGC or the Commission) to protect such gaming, among other things, as a means of generating tribal revenue.

At its core, Indian gaming is a function of sovereignty exercised by tribal governments. In addition, the Federal Government maintains a government-to-government relationship with the tribes—a responsibility of the NIGC. Thus, while the Agency is committed to strong regulation of Indian gaming, the Commission is committed to strengthening government-to-government relations by engaging in meaningful consultation with tribes to fulfill the intent of the IGRA. Our vision is to adhere to principles of good government, including transparency to promote Agency accountability and fiscal responsibility, to operate consistently to ensure fairness and clarity in the administration of the IGRA, and to respect the responsibilities of each sovereign in order to fully promote tribal economic development, self-sufficiency, and strong tribal governments. The NIGC is committed to working with tribes to ensure the integrity of the industry by exercising its regulatory responsibilities through assistance, compliance, and enforcement activities.

The Commission intends to review its current regulations and guidance for effectiveness and to consult with tribes about relevancy, consistency in application, and limitations or barriers to implementation, based upon their experiences, to identify areas of improvement and any needed amendments. Accordingly, the Commission has added a regulatory review action to this semiannual regulatory agenda. Regarding those regulatory actions identified in spring 2010, the Commission has maintained those descriptions but extended the timetable of each regulatory action by 1 year to reflect this review. The Commission is withdrawing the notice regarding Indian hiring preference because it will implement the preference through internal policy. The Commission recently began an initial series of government-to-government consultations with tribes seeking their views on how to prioritize its review of the regulations. The Commission will continue with government-to-government consultation on this issue as it develops a regulatory review schedule.

NIGC

PROPOSED RULE STAGE

172. TRIBAL BACKGROUND INVESTIGATION SUBMISSION REQUIREMENTS AND TIMING

Priority:

Other Significant

Legal Authority:

25 USC 2706(b)(3); 25 USC 2706(b)(10); 25 USC 2710(b)(2)(F)(ii); 25 USC 2710(c)(1)–(2); 25 USC 2710(d)(2)(A)

CFR Citation:

25 CFR 556; 25 CFR 558

Legal Deadline:

None

Abstract:

It is necessary for the National Indian Gaming Commission (NIGC) to modify certain regulations concerning background investigations and licensing to streamline the process for submitting information, ensure that the process complies with the Indian Gaming Regulatory Act (IGRA), and distinguish the requirements for temporary and permanent licenses.

Statement of Need:

Modifications to specific background investigation and licensing regulations are needed to ensure compliance with the Indian Gaming Regulatory Act (IGRA), which mandates that certain notifications be submitted to the Commission. Modifications are also needed to reduce the quantity of documents submitted to the Commission under these regulations and to distinguish the requirements for temporary and permanent licenses.

Summary of Legal Basis:

It is the goal of NIGC to provide regulation of Indian gaming to shield it from organized crime and other corrupting influences as well as to assure that gaming is conducted fairly and honestly. (25 U.S.C. 2702). The Commission is charged with the responsibility of monitoring gaming conducted on Indian lands. (25 U.S.C. 2706(b)(1)). IGRA expressly authorizes the Commission to ''promulgate such regulations and guidelines as it deems appropriate to implement the provisions of the (Act).'' (25 U.S.C. 2706(b)(10)). Sections 2710(b)(2)(F) and 2710(d)(A) require tribes to have an adequate system for background investigations of primary management officials and key employees and inform the Commission of the results of those investigations. Under section 2710(c), the Commission may also object to licenses or require a tribe to suspend a license. The Commission relies on these sections of the statute to authorize the modification of the background and licensing regulations to ensure compliance with IGRA, reduce the quantity of documents submitted to the Commission, and distinguish the requirements for temporary and permanent licenses.

Alternatives:

If the Commission does not modify these regulations to reduce the quantity of documents submitted under them, tribes will continue to be required to submit these documents to the Commission. Further, to ensure compliance with IGRA, the modifications mandating notifications to the Commission regarding the results of background checks and the issuance of temporary and permanent gaming licenses must be made.

Anticipated Cost and Benefits:

These modifications to the background investigation and licensing regulations will reduce the cost of regulation to the Federal Government by reducing the amount of documents received from tribes that must be processed and retained. Further, these modifications will reduce the quantity of documents that tribes are required to submit to the NIGC, which will result in a cost savings to the tribes. There are minimal anticipated cost increases to tribal governments due to additional notifications to the NIGC.

Risks:

There are no known risks to this regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	09/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Tribal

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RIN: 3141–AA15

NIGC

173. CLASS II AND CLASS III MINIMUM INTERNAL CONTROL STANDARDS

Priority:

Other Significant

Legal Authority:

25 USC 2706(b)(10); 25 USC 2706(b)(1)–(4); 25 USC 2710(d)(3)(C)(vi); 25 USC 2710(d)(7)(B)(vii)

CFR Citation:

25 CFR 542; 25 CFR 543

Legal Deadline:

None

Abstract:

The National Indian Gaming Commission is revising the existing minimum internal control standards (MICS) to reflect the changing technologies in the industry. The Commission will routinely revise the MICS in response to these changes. It is also continuing with its plan to clarify the regulatory structure by segregating Class II MICS from Class III.

Statement of Need:

The rapid evolution of gaming technology and regulatory structures in Indian gaming brings new risks and requires a distinction between the control standards for Class II and Class III gaming. Periodic review and revision of existing standards are necessary to ensure that they remain relevant and continue to adequately protect tribal gaming assets and the interests of stakeholders and the gaming public.

Summary of Legal Basis:

It is the goal of NIGC to provide regulation of Indian gaming to shield it from organized crime and other corrupting influences as well as to assure that gaming is conducted fairly and honestly. (25 U.S.C. 2702). Congress authorized NIGC to promulgate regulations and guidelines to implement IGRA's provisions. 25 U.S.C. 2706(b)(10). Federal MICS are perhaps the single most important tool for ensuring IGRA's purposes are carried out. The Commission is charged with monitoring gaming conducted on Indian lands (25 U.S.C. 2706(b)(1)), and this monitoring takes different forms depending on the class of gaming being conducted. With regard to Class II gaming, NIGC's responsibility includes inspecting and examining the premises located on Indian lands on which Class II gaming is conducted and auditing all papers, books, and records respecting gross revenues of Class II gaming conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under IGRA. (25 U.S.C. 2706(b)(2),(4)). Therefore, NIGC is amending its Class II MICS regulations to set standards for inspections, contents of records, etc. With regard to Class III MICS, however, the NIGC's role is to provide guidance that tribes and states may then include in ordinances, compacts, or procedures or use as a model. Pursuant to 25 U.S.C. 2710(d)(3)(C)(vi), some states compact with tribes to require either the standards set forth in NIGC's Class III MICS, or others at least as stringent. (See, for example: Model Tribal Gaming Compact, Oklahoma, Part 5(B); Class III Gaming Compact Between the Fort Belknap Indian Community and the State of Montana, App. (A)(III), approved November 9, 2007; and Compact Between the Omaha Tribe and State of Iowa, Section 11, approved January 19, 2007.) Moreover, several tribes have voluntarily adopted NIGC's Class III MICS into their ordinances, and thus granted NIGC authority pursuant to the enforcement provisions of 25 U.S.C. 2713. The Commission relies on these sections to authorize promulgations of MICS to ensure integrity in tribal gaming.

Alternatives:

If the Commission does not periodically update the MICS, the regulations that govern tribal gaming will not address changing technology and gaming methods.

Anticipated Cost and Benefits:

Updated MICS will aid tribal governments in the regulation of their gaming activities.

Risks:

There are no known risks to this regulatory action.

Timetable:

Action	Date	FR Cite
First NPRM	12/01/04	69 FR 69847
First NPRM Comment Period End	01/18/05	
Second NPRM	03/10/05	70 FR 11893
Second NPRM Comment Period End	04/25/05	
Final Action on First Rule	05/04/05	70 FR 23011
Final Action on Second Rule	08/12/05	70 FR 47097
Third NPRM	11/15/05	70 FR 69293
Third NPRM Comment Period End	12/30/05	
Final Action on Third Rule (1)	05/11/06	71 FR 27385
Fourth NPRM	09/00/11	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Tribal

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RIN: 3141–AA27

BILLING CODE 7565–01–S

POSTAL REGULATORY COMMISSION (PRC)

Statement of Regulatory Priorities

The Postal Regulatory Commission serves as the primary regulator of the United States Postal Service. Its primary mission is to ensure accountability and transparency of the Postal Service to Congress, stakeholders, and the general public on issues such as financial operations, pricing policies, and delivery performance.

In fiscal year 2011, the Commission will evaluate its existing regulations with the goal of improving and streamlining them to ensure that the Postal Service is in full compliance with applicable law. The Commission's principal regulatory priority for fiscal year 2011 is to complete its review of proposed exceptions to recently adopted service performance measurement reporting requirements.

PRC

FINAL RULE STAGE

174. ● PERIODIC REPORTING EXCEPTIONS

Priority:

Other Significant

Legal Authority:

39 USC 3652(a)(2)(B); 39 USC 3652(e); 39 USC 3651

CFR Citation:

Not Yet Determined

Legal Deadline:

None

Abstract:

Pursuant to section 3652(e) of the Postal Accountability and Enhancement Act (PAEA) of 2006, the Commission has completed a comprehensive rulemaking addressing service measure performance and customer satisfaction reporting on the part of the United States Postal Service (Postal Service). These regulations allow the Postal Service to request that a product or component of a product be excluded from service performance measurement reporting if certain conditions (set out in the regulations) are met. The Commission has established rulemaking to address the Postal Service's formal mail request for semi-permanent exceptions for service performance measurement of Standard Mail High Density, Saturation, and Ca Route Parcels, Inbound International Surface Parcel Post (at Universal Postal Union Rates), hard-copy Address Correction Service, various Special Services, within County Periodicals, and various negotiated service agreements.

This rulemaking will assess the need to balance the responsibilities of the Commission and the Postal Service under the PAEA with time and resource constraints, and thereby, advance an efficient implementation of the 2006 law.

Statement of Need:

The Commission recognizes that exceptions to new service performance reporting requirements may be appropriate, assuming certain conditions are met. Therefore, it has established this rulemaking to address the Postal Service's request for exceptions for certain products and services.

Summary of Legal Basis:

39 U.S.C. 3652(a)(2)(B) and 3651 require the United States Postal Service to prepare and submit to the Postal Regulatory Commission periodic reports, which provide, in part, measures of the quality of service afforded each market dominant product. Practical implementation of these provisions requires that the Postal Service be given an opportunity to apply for certain exceptions to new reporting requirements under certain conditions. This rulemaking allows the Postal Service's proposed exceptions to be considered.

Alternatives:

There are no alternative methods of complying with the requirements of 39 U.S.C. 3652(a)(2)(B) and 3651 other than by issuing regulations.

Anticipated Cost and Benefits:

The United States Postal Service is expected to incur somewhat fewer costs with respect to measuring and reporting if its proposal is adopted, in whole or in part. The Commission will not incur any additional costs to review Postal Service reports and may incur fewer costs.

Risks:

There are no known risks to this regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	07/06/10	75 FR 38757
NPRM Comment Period End	07/16/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required:

No

Government Levels Affected:

Federal

URL For More Information:

www.prc.gov (usually linked to the program office)

URL For Public Comments:

www.regulations.gov

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RIN: 3211–AA06

BILLING CODE 7710–FW–S

Federal Register

Monday,
December 20, 2010

Part III

Department of Agriculture

Semiannual Regulatory Agenda

DEPARTMENT OF AGRICULTURE (USDA)

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-XI, XIV-XVIII, XX, XXVI-XXXVIII, XLI-XLII, L

9 CFR Chs. I-III

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda, Fall 2010

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of significant and not significant regulations being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Order 12866 ''Regulatory Planning and Review.'' The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96-354. This agenda also identifies regulatory actions that are being reviewed in compliance with section 610(c) of the Regulatory Flexibility Act. We invite public comment on those actions.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

USDA's complete regulatory agenda is available online at www.reginfo.gov. Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), USDA's printed agenda entries include only:

(1) Rules that are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules identified for periodic review under section 610 of the Regulatory Flexibility Act.

For this edition of the USDA regulatory agenda, the most important significant regulatory actions and a Statement of Regulatory Priorities are included in the Regulatory Plan, which appears in both the online regulatory agenda and in part II of the **Federal Register** that includes the abbreviated regulatory agenda.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action. For general comments or inquiries about the agenda, please contact Michael Poe, Office of Budget and Program Analysis, U.S. Department of Agriculture, Washington, DC 20250, (202) 720-1272.

Dated: September 21, 2010.

Michael Poe,

Chief, Legislative and Regulatory Staff.

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
175	National Organic Program, Sunset (2011) (Crops and Processing) (TM-07-0136)	0581–AC77
176	Wholesale Pork Reporting Program **(Reg Plan Seq No. 1)**	0581–AD07
177	National Organic Program, Periodic Pesticide Residue Testing	0581–AD10

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Agricultural Marketing Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
178	National Dairy Promotion and Research Program; Dairy Import Assessments, DA-08-0050 **(Reg Plan Seq No. 2)**	0581–AC87
179	National Organic Program: Amendments to the National List (Crops, Livestock, and Processing) TM-09-0003	0581–AC91

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Farm Service Agency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
180	Emergency Forest Restoration Program	0560–AH89
181	Farm Loan Programs Loan Making Activities	0560–AI03
182	Conservation Loan Guarantee Program	0560–AI04
183	Loan Servicing; Farm Loan Programs	0560–AI05

USDA

Farm Service Agency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
184	Biomass Crop Assistance Program	0560–AH92

Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
185	Animal Welfare: Marine Mammals; Nonconsensus Language, and Interactive Programs **(Rulemaking Resulting From a Section 610 Review)**	0579–AB24
186	Animal Welfare; Regulations and Standards for Birds **(Reg Plan Seq No. 3)**	0579–AC02
187	Bovine Spongiform Encephalopathy; Importation of Bovines and Bovine Products	0579–AC68
188	Viral Hemorrhagic Septicemia; Interstate Movement and Import Restrictions on Certain Live Fish	0579–AC74
189	Scrapie in Sheep and Goats	0579–AC92
190	Plant Pest Regulations; Update of General Provisions **(Reg Plan Seq No. 4)**	0579–AC98
191	Bovine Spongiform Encephalopathy and Scrapie; Importation of Small Ruminants and Their Germplasm, Products, and Byproducts	0579–AD10

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Animal and Plant Health Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
192	Importation of Plants for Planting; Establishing a New Category of Plants for Planting Not Authorized for Importation Pending Pest Risk Analysis **(Rulemaking Resulting From a Section 610 Review) (Reg Plan Seq No. 7)**	0579–AC03
193	Citrus Canker; Compensation for Certified Citrus Nursery Stock	0579–AC05
194	Importation of Poultry and Poultry Products From Regions Affected With Highly Pathogenic Avian Influenza	0579–AC36
195	Handling of Animals; Contingency Plans	0579–AC69

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Animal and Plant Health Inspection Service—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
196	Phytophthora Ramorum; Quarantine and Regulations	0579–AB82
197	Boll Weevil; Quarantine and Regulations	0579–AB91
198	Introduction of Organisms and Products Altered or Produced Through Genetic Engineering	0579–AC31
199	Animal Welfare; Climatic and Environmental Conditions for Transportation of Warm-Blooded Animals Other Than Marine Mammals	0579–AC41
200	Light Brown Apple Moth Quarantine	0579–AC71
201	Citrus Greening and Asian Citrus Psyllid; Quarantine and Interstate Movement Regulations	0579–AC85

Animal and Plant Health Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
202	Phytosanitary Certificates for Imported Fruits and Vegetables	0579–AB18
203	Citrus Canker; Quarantine of the State of Florida	0579–AC07
204	Minimum Age Requirements for the Transport of Animals	0579–AC14
205	Importation of Lemons From Northwest Argentina	0579–AC79
206	Sirex Woodwasp; Quarantine and Regulations	0579–AC86

USDA

Rural Housing Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
207	Guaranteed Single-Family Housing	0575–AC18

Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
208	Mandatory Inspection of Catfish and Catfish Products **(Reg Plan Seq No. 18)**	0583–AD36

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
209	Performance Standards for the Production of Processed Meat and Poultry Products; Control of Listeria Monocytogenes in Ready-To-Eat Meat and Poultry Products **(Reg Plan Seq No. 21)**	0583–AC46
210	Federal-State Interstate Shipment Cooperative Inspection Program **(Reg Plan Seq No. 24)**	0583–AD37
211	New Formulas for Calculating the Basetime, Overtime, Holiday, and Laboratory Services Rates; Rate Changes Based on the Formulas; and Increased Fees for the Accredited Laboratory Program	0583–AD40
212	Changes to the Schedule of Operations Regulations	0583–AD42

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Forest Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
213	Special Areas; State-Specific Inventoried Roadless Area Management: Colorado	0596–AC74

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
214	Designation of Biobased Items for Federal Procurement, Round 7	0503–AA36
215	Designation of Biobased Items for Federal Procurement, Round 8	0503–AA39
216	Revised Program Guidelines	0503–AA40

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
217	Voluntary Labeling Program for Designated Biobased Products	0503–AA35

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Department of Agriculture (USDA)
Agricultural Marketing Service (AMS)

Proposed Rule Stage

175. NATIONAL ORGANIC PROGRAM, SUNSET (2011) (CROPS AND PROCESSING) (TM–07–0136)

Legal Authority: 7 USC 6501

Abstract: The Agricultural Marketing Service (AMS) is amending regulations pertaining to the National List of Allowed and Prohibited Substances. As required by the National Organic Foods Production Act of 1990, the allowed use of the 12 synthetic and non-synthetic substances in organic production and handling will expire on September 12, 2011. The AMS published an advance notice of proposed rulemaking to make the public aware of this requirement. AMS believes that public comment is essential in the review process to determine whether these substances should continue to be allowed or prohibited in the production and handling of organic agricultural products.

Timetable:

Action	Date	FR Cite
ANPRM	03/14/08	73 FR 13795
ANPRM Comment Period End	05/13/08	
NPRM	12/00/10	
Final Action	08/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0581–AC77

176. ● WHOLESALE PORK REPORTING PROGRAM

Regulatory Plan: This entry is Seq. No. 1 in part II of this issue of the **Federal Register**.

RIN: 0581–AD07

177. ● NATIONAL ORGANIC PROGRAM, PERIODIC PESTICIDE RESIDUE TESTING

Legal Authority: 7 USC 6501

Abstract: This rulemaking would amend sections of the NOP regulations which pertain to the inspection and testing of agricultural products to be sold or labeled as ''organic''. Specifically, this action would incorporate provisions to require that certifying agents conduct periodic residue testing of organic products to determine if the products contain pesticides in violation of the NOP regulations and, if so, the process by which violations are reported and enforcement actions should be taken.

Timetable:

Action	Date	FR Cite
NPRM	04/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0581–AD10

Department of Agriculture (USDA)
Agricultural Marketing Service (AMS)

Final Rule Stage

178. NATIONAL DAIRY PROMOTION AND RESEARCH PROGRAM; DAIRY IMPORT ASSESSMENTS, DA–08–0050

Regulatory Plan: This entry is Seq. No. 2 in part II of this issue of the **Federal Register**.

RIN: 0581–AC87

179. NATIONAL ORGANIC PROGRAM: AMENDMENTS TO THE NATIONAL LIST (CROPS, LIVESTOCK, AND PROCESSING) TM–09–0003

Legal Authority: 7 USC 6517 and 6518

Abstract: The Agricultural Marketing Service is amending the National List of Allowed and Prohibited Substances contained in the National Organic Program regulations. This rule would add six new substances and remove one from the list.

Timetable:

Action	Date	FR Cite
NPRM	06/03/09	74 FR 26591
NPRM Comment Period End	08/03/09	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0581–AC91

BILLING CODE 3410—02—S

Department of Agriculture (USDA)
Farm Service Agency (FSA)

Final Rule Stage

180. EMERGENCY FOREST RESTORATION PROGRAM

Legal Authority: PL 110–246

Abstract: A new subpart will be added to the regulations in 7 CFR part 701 to implement the Emergency Forest Restoration Program (EFRP), which was authorized by the 2008 Farm Bill. EFRP will provide cost-share funding to owners of nonindustrial private forest land to restore the land after the land is damaged by a natural disaster. The damaged land must have had a tree cover immediately before the natural disaster.

Timetable:

Action	Date	FR Cite
Interim Rule	11/17/10	75 FR 70083

USDA—FSA **Final Rule Stage**

Action	Date	FR Cite
Interim Final Rule Effective	11/17/10	
Interim Final Rule Comment Period End	01/18/11	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Deirdre Holder, Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, 1400 Independence Avenue SW, Washington, DC 20250–0572
Phone: 202 205–5851
Fax: 202 720–5233
Email: deirdre.holder@wdc.usda.gov

RIN: 0560–AH89

181. FARM LOAN PROGRAMS LOAN MAKING ACTIVITIES

Legal Authority: PL 110–246

Abstract: The rule will implement the provisions of the 2008 Farm Bill that affect Farm Loan Programs (FLP) Loan Making Division (LMD); there is discretion involved in the implementation. The sections being implemented are: 5001, Direct Loans; 5005, Beginning Farmer or Rancher and Socially Disadvantaged Farmer or Rancher Contract Land Sales Program Down Payment Loan Program; 5101, Farming Experience as an Eligibility Requirement; 5201, Eligibility of Equine Farmers and Ranchers for Emergency Loans; 5301, Beginning Farmer and Rancher Individual Development Accounts Pilot Program; and 5501, Loans to Purchase Highly Fractionated Land.

A Beginning Farmer and Rancher Individual Development Accounts five-year pilot program will be established in at least 15 States. The program entails FSA making grants to qualified nonprofit organizations who then deliver the program to eligible participants. Grantees must match 50 percent of the grant received. Under the program, qualified, low-income beginning farmers or prospective beginning farmers would establish saving accounts with a monthly deposit plan administered by the grantees. The program funds must match the participants' deposits at a minimum of 100 percent and a maximum of 200 percent. Participants must use the savings account funds toward the purchase of farmland, livestock, or similar farm start-up/operating expenses. The program must be operated by and in conjunction with FSA farm loan programs. The initial applications for the program must be approved no more than one year after the law is enacted. The program is not mandatory; an appropriation of up to $5 million annually is authorized to fund the program.

Individual tribal members will be allowed to qualify for Indian Land Acquisition loans.

Timetable:

Action	Date	FR Cite
NPRM	09/23/10	75 FR 57866
NPRM Comment Period End	11/22/10	
Final Rule	05/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Deirdre Holder, Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, 1400 Independence Avenue SW, Washington, DC 20250–0572
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RIN: 0560–AI03

182. CONSERVATION LOAN GUARANTEE PROGRAM

Legal Authority: PL 110–246

Abstract: The rule will implement the provisions of the 2008 Farm Bill that affect Farm Loan Programs (FLP) Loan Making Division (LMD); there is discretion in how several of the provisions are implemented. The section being implemented is 5002, Conservation Loan and Loan Guarantee. Implementation of this provision will create a new direct and guaranteed loan program directed at assisting farmers in implementing conservation practices.

The rule establishes a new loan and loan guarantee program to finance qualifying conservation projects. All guarantees will be at 75 percent of the loan amount. The applicant must have an acceptable conservation plan that includes the project(s) to be financed. Preference is given to beginning farmer and socially disadvantaged applicants, conversion to sustainable or organic production practices, and compliance with highly erodible land conservation requirements. Eligibility for the program is not restricted to those who cannot get credit elsewhere. The program is not mandatory; appropriations are authorized.

Timetable:

Action	Date	FR Cite
Interim Rule	09/03/10	75 FR 54005
Interim Rule Comment Period End	11/02/10	
Final Rule	05/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Deirdre Holder, Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, 1400 Independence Avenue SW, Washington, DC 20250–0572
Phone: 202 205–5851
Fax: 202 720–5233
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RIN: 0560–AI04

183. LOAN SERVICING; FARM LOAN PROGRAMS

Legal Authority: PL 110–246

Abstract: The 2008 Farm Bill requires several changes to the Farm Service Agency (FSA) Farm Loan Program (FLP) loan servicing regulations. An overall plan will be established to insure that borrowers can be transitioned to private credit in the shortest timeframe practicable. At present, FSA monitors the status of all borrowers to determine if graduation is possible. The 2008 Farm Bill emphasizes this responsibility and insures that FSA uses all the tools available to graduate borrowers to commercial credit as soon as they can financially do so. In 2007, over 2,500 direct borrowers (about 3.7 percent of the portfolio) graduated to commercial credit. FSA believes graduation will continue in the 3 to 5 percent range and is dependant on the overall farm economy.

The right of an FSA borrower-owner to purchase leased property under Homestead Protection will be extended beyond the borrower-owner to the immediate family. Currently, FSA only has 38 properties in Homestead Protection.

Acceleration and foreclosure will be suspended on borrowers who file a claim of program discrimination against the Department or have a claim

USDA—FSA **Final Rule Stage**

pending. Interest accrual and offset will also be suspended during the time of the moratorium. If the borrower does not prevail in the claim, the interest, which would have accrued during the moratorium, will be due and offset on the account will be reestablished.

Timetable:

Action	Date	FR Cite
NPRM	08/07/09	74 FR 39565
NPRM Comment Period End	10/06/09	
Final Rule	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Deirdre Holder, Director, Regulatory Review Group, Department of Agriculture, Farm Service Agency, 1400 Independence Avenue SW, Washington, DC 20250–0572
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RIN: 0560–AI05

Department of Agriculture (USDA) Farm Service Agency (FSA) — Completed Actions

184. BIOMASS CROP ASSISTANCE PROGRAM

Legal Authority: PL 110–246

Abstract: A new regulation was added to implement the Biomass Crop Assistance Program (BCAP) as required by the 2008 Farm Bill. We will collaborate with USDA/Rural Development (RD), private industry and agricultural and forest land owners to support the evaluation and selection of BCAP project areas. BCAP project areas must include a commitment to use local production; evidence of sufficient equity (if the facility is not operational at the time of proposal); anticipated economic impacts; opportunities for local ownership; the participation rate by beginning and socially disadvantaged farmers and ranchers; the impact on soil, water, and related resources; and the variety in biomass production approaches. FSA will partner with RD, which has capability and responsibility, including the potential for providing funding for proposed biomass conversion facility, regarding BCAP project area evaluation and selection. After BCAP project area selection, FSA, acting on behalf of the Commodity Credit Corporation (CCC), may enter into contracts with BCAP project area producers for a term of up to 5 years for annual and perennial crops, and up to 15 years for woody biomass.

Completed:

Reason	Date	FR Cite
Final Action	10/27/10	75 FR 66201

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Deirdre Holder
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Fax: 202 720–5233
Email: deirdre.holder@wdc.usda.gov

RIN: 0560–AH92

BILLING CODE 3410—05—S

Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) — Proposed Rule Stage

185. ANIMAL WELFARE: MARINE MAMMALS; NONCONSENSUS LANGUAGE, AND INTERACTIVE PROGRAMS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Legal Authority: 7 USC 2131 to 2159

Abstract: The U.S. Department of Agriculture regulates the humane handling, care, treatment, and transportation of certain marine mammals under the Animal Welfare Act. The present standards for these animals have been in effect since 1979 and amended in 1984. During this time, advances have been made and new information has been developed with regard to the housing and care of marine mammals. This rulemaking addresses marine mammal standards on which consensus was not reached during negotiated rulemaking conducted between September 1995 and July 1996. These include standards affecting variances, indoor facilities, outdoor facilities, space requirements, and water quality, as well as swim-with-the-dolphin programs. These actions appear necessary to ensure that the minimum standards for the humane handling, care, treatment, and transportation of marine mammals in captivity are based on current general, industry, and scientific knowledge and experience.

Timetable:

Action	Date	FR Cite
ANPRM	05/30/02	67 FR 37731
ANPRM Comment Period End	07/29/02	
NPRM	12/00/10	
NPRM Comment Period End	02/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Barbara Kohn, Senior Staff Veterinarian, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 84, Riverdale, MD 20737–1234
Phone: 301 734–7833

RIN: 0579–AB24

186. ANIMAL WELFARE; REGULATIONS AND STANDARDS FOR BIRDS

Regulatory Plan: This entry is Seq. No. 3 in part II of this issue of the **Federal Register**.

RIN: 0579–AC02

187. BOVINE SPONGIFORM ENCEPHALOPATHY; IMPORTATION OF BOVINES AND BOVINE PRODUCTS

Legal Authority: 7 USC 450; 7 USC 1622; 7 USC 7701 to 7772; 7 USC 8301 to 8317; 21 USC 136 and 136a; 31 USC 9701

Abstract: This rulemaking would amend the regulations regarding the

importation of bovines and bovine products. Under this rulemaking, countries would be classified as either negligible risk, controlled risk, or undetermined risk for bovine spongiform encephalopathy (BSE). Some commodities would be allowed importation into the United States regardless of the BSE classification of the country of export. Other commodities would be subject to importation restrictions or prohibitions based on the type of commodity and the BSE classification of the country. The criteria for country classification and commodity import would be closely aligned with those of the World Organization for Animal Health. This rulemaking would also address public comments received in response to a September 2008 request for comments regarding certain provisions of an APHIS January 2005 final rule.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	
NPRM Comment Period End	04/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Christopher Robinson, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 40, Riverdale, MD 20737–1231
Phone: 301 734–7837

RIN: 0579–AC68

188. VIRAL HEMORRHAGIC SEPTICEMIA; INTERSTATE MOVEMENT AND IMPORT RESTRICTIONS ON CERTAIN LIVE FISH

Legal Authority: 7 USC 1622; 7 USC 8301 to 8317; 21 USC 136 and 136a; 31 USC 9701

Abstract: We are establishing regulations to restrict the interstate movement and importation into the United States of live fish that are susceptible to viral hemorrhagic septicemia, a highly contagious disease of certain fresh and saltwater fish. Viral hemorrhagic septicemia has been detected in freshwater fish in several of the Great Lakes and related tributaries. The disease has been responsible for several large-scale die-offs of wild fish in the Great Lakes region. This action is necessary to prevent further introductions into, and dissemination within, the United States of viral hemorrhagic septicemia. This proposed rule replaces a previously published but not effective interim rule that contained substantially different restrictions on the interstate movement and importation of VHS-susceptible live fish.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/09/08	73 FR 52173
Interim Final Rule Comment Period End	11/10/08	
Interim Final Rule: Delay of Effective Date	10/28/08	73 FR 63867
Interim Final Rule Effective	01/09/09	
Interim Final Rule: Delay of Effective Date	01/02/09	74 FR 1
NPRM	12/00/10	
NPRM Comment Period End	03/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Christa Speekmann, Import/Export Specialist, Aquaculture, National Center for Import and Export, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737–1236
Phone: 301 734–8695

RIN: 0579–AC74

189. SCRAPIE IN SHEEP AND GOATS

Legal Authority: 7 USC 8301 to 8317

Abstract: This rulemaking would amend the scrapie regulations by changing the risk groups and categories established for individual animals and for flocks, increasing the use of genetic testing as a means of assigning risk levels to animals, reducing movement restrictions for animals found to be genetically less susceptible or resistant to scrapie, and simplifying, reducing, or removing certain recordkeeping requirements. This action would provide designated scrapie epidemiologists with more alternatives and flexibility when testing animals in order to determine flock designations under the regulations. It would change the definition of high-risk animal, which will change the types of animals eligible for indemnity, and to pay higher indemnity for certain pregnant ewes and early maturing ewes. It would also make the identification and recordkeeping requirements for goat owners consistent with those for sheep owners. These changes would affect sheep and goat producers and State governments.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	
NPRM Comment Period End	03/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Diane Sutton, National Scrapie Program Coordinator, Ruminant Health Programs, NCAHP, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 43, Riverdale, MD 20737–1235
Phone: 301 734–6954

RIN: 0579–AC92

190. PLANT PEST REGULATIONS; UPDATE OF GENERAL PROVISIONS

Regulatory Plan: This entry is Seq. No. 4 in part II of this issue of the **Federal Register**.

RIN: 0579–AC98

191. BOVINE SPONGIFORM ENCEPHALOPATHY AND SCRAPIE; IMPORTATION OF SMALL RUMINANTS AND THEIR GERMPLASM, PRODUCTS, AND BYPRODUCTS

Legal Authority: 7 USC 450; 7 USC 1622; 7 USC 7701 to 7772; 7 USC 7781 to 7786; 7 USC 8301 to 8317; 21 USC 136 and 136a; 31 USC 9701

Abstract: This rulemaking would amend the bovine spongiform encephalopathy (BSE) and scrapie regulations regarding the importation of live sheep, goats, and wild ruminants and their embryos, semen, products, and byproducts. Some countries from which such imports would be allowed under this rule are currently those from which the importation of live sheep, goats, wild ruminants, their embryos, and ruminant products and byproducts are prohibited under existing BSE regulations. Some products would be allowed importation without restriction due to the inherent lack of BSE risk regarding the product. Certain other products and live animals would be

USDA—APHIS **Proposed Rule Stage**

allowed importation if it can be certified that the live animals or the animals from which the products were derived were born after implementation of an effective feed ban. The proposed scrapie revisions regarding the importation of sheep, goats, and susceptible wild ruminants for other than immediate slaughter are similar to those recommended by the World Organization for Animal Health in restricting the importation of such animals to those from scrapie-free regions or certified scrapie-free flocks.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	
NPRM Comment Period End	05/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Betzaida Lopez, Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737–1231
Phone: 301 734–5677

RIN: 0579–AD10

Department of Agriculture (USDA) — Final Rule Stage
Animal and Plant Health Inspection Service (APHIS)

192. IMPORTATION OF PLANTS FOR PLANTING; ESTABLISHING A NEW CATEGORY OF PLANTS FOR PLANTING NOT AUTHORIZED FOR IMPORTATION PENDING PEST RISK ANALYSIS (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 7 in part II of this issue of the **Federal Register**.

RIN: 0579–AC03

193. CITRUS CANKER; COMPENSATION FOR CERTIFIED CITRUS NURSERY STOCK

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786

Abstract: This action follows a rulemaking that established provisions under which eligible commercial citrus nurseries may, subject to the availability of appropriated funds, receive payments for certified citrus nursery stock destroyed to eradicate or control citrus canker. The payment of these funds is necessary in order to reduce the economic effects on affected commercial citrus nurseries that have had certified citrus nursery stock destroyed to control citrus canker.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/08/06	71 FR 33168
Interim Final Rule Effective	06/08/06	
Interim Final Rule Comment Period End	08/07/06	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Lynn E. Goldner, National Program Manager, Emergency and Domestic Programs, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 137, Riverdale, MD 20737–1231
Phone: 301 734–7228

RIN: 0579–AC05

194. IMPORTATION OF POULTRY AND POULTRY PRODUCTS FROM REGIONS AFFECTED WITH HIGHLY PATHOGENIC AVIAN INFLUENZA

Legal Authority: 7 USC 1622; 7 USC 8301 to 8317; 21 USC 136 and 136a

Abstract: This rulemaking will amend the regulations concerning the importation of animals and animal products to prohibit or restrict the importation of birds, poultry, and bird and poultry products from regions that have reported the presence in commercial birds or poultry of highly pathogenic avian influenza other than subtype H5N1. This action will supplement existing prohibitions and restrictions on articles from regions that have reported the presence of exotic Newcastle disease or highly pathogenic avian influenza subtype H5N1. The new restrictions will be almost identical to those imposed on articles from regions with exotic Newcastle disease.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/10	
Interim Final Rule Comment Period End	02/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Julia Punderson, Senior Staff Veterinarian, NCIE, Animal Health Policy and Programs, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 38, Riverdale, MD 20737
Phone: 301 734–4356

RIN: 0579–AC36

195. HANDLING OF ANIMALS; CONTINGENCY PLANS

Legal Authority: 7 USC 2131 to 2159

Abstract: This rulemaking will amend the Animal Welfare Act regulations to add requirements for contingency planning and training of personnel by research facilities and by dealers, exhibitors, intermediate handlers, and carriers. These requirements are necessary because we believe all licensees and registrants should develop a contingency plan for all animals regulated under the Animal Welfare Act in an effort to better prepare for potential disasters. This action will heighten the awareness of licensees and registrants regarding their responsibilities and help ensure a timely and appropriate response should an emergency or disaster occur.

Timetable:

Action	Date	FR Cite
NPRM	10/23/08	73 FR 63085
NPRM Comment Period End	12/22/08	
NPRM Comment Period Extended	12/19/08	73 FR 77554
NPRM Comment Period End	02/20/09	
Final Action	01/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jeanie Lin, National Emergency Programs Manager, Animal Care, Department of Agriculture, Animal and Plant Health Inspection

USDA—APHIS **Final Rule Stage**

Service, 4700 River Road, Unit 84, Riverdale, MD 20737

Phone: 301 734–7833

RIN: 0579–AC69

Department of Agriculture (USDA) **Long-Term Actions**

Animal and Plant Health Inspection Service (APHIS)

196. PHYTOPHTHORA RAMORUM; QUARANTINE AND REGULATIONS

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786

Abstract: The interim rule amended the Phytophthora ramorum regulations to make the regulations consistent with a Federal Order issued by APHIS in December 2004 that established restrictions on the interstate movement of nursery stock from nurseries in nonquarantined counties in California, Oregon, and Washington. This action also updated conditions for the movement of regulated articles of nursery stock from quarantined areas, as well as restricted the interstate movement of all other nursery stock from nurseries in quarantined areas. We also updated the list of plants regulated because of P. ramorum and the list of areas that are quarantined for P. ramorum and made other miscellaneous revisions to the regulations. These actions are necessary to prevent the spread of P. ramorum to noninfested areas of the United States. We will continue to update the regulations through additional rulemakings as new scientific information on this pathogen becomes available.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/27/07	72 FR 8585
Interim Final Rule Effective	02/27/07	
Interim Final Rule Comment Period End	04/30/07	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Prakash Hebbar Phone: 301 734–5717

RIN: 0579–AB82

197. BOLL WEEVIL; QUARANTINE AND REGULATIONS

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786

Abstract: This action would establish domestic boll weevil regulations that would restrict the interstate movement of regulated articles within regulated areas and from regulated areas into or through nonregulated areas in commercial cotton-producing States. The regulations would help prevent the artificial spread of boll weevil into noninfested areas of the United States and the reinfestation of areas from which the boll weevil has been eradicated.

Timetable:

Action	Date	FR Cite
NPRM	10/31/06	71 FR 63707
NPRM Comment Period End	01/02/07	
NPRM Comment Period Extended	12/20/06	71 FR 76224
NPRM Comment Period End	02/01/07	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Agency Contact: William Grefenstette Phone: 301 734–8676

RIN: 0579–AB91

198. INTRODUCTION OF ORGANISMS AND PRODUCTS ALTERED OR PRODUCED THROUGH GENETIC ENGINEERING

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786; 31 USC 9701

Abstract: This rulemaking would revise the regulations regarding the importation, interstate movement, and environmental release of certain genetically engineered organisms in order to bring the regulations into alignment with provisions of the Plant Protection Act. The revisions would also update the regulations in response to advances in genetic science and technology and our accumulated experience in implementing the current regulations. This is the first comprehensive review and revision of the regulations since they were established in 1987. This rule would affect persons involved in the importation, interstate movement, or release into the environment of genetically engineered plants and certain other genetically engineered organisms.

Timetable:

Action	Date	FR Cite
Notice of Intent to Prepare an Environmental Impact Statement	01/23/04	69 FR 3271
Comment Period End	03/23/04	
Notice of Availability of Draft Environmental Impact Statement	07/17/07	72 FR 39021
Comment Period End	09/11/07	
NPRM	10/09/08	73 FR 60007
NPRM Comment Period End	11/24/08	
Correction	11/10/08	73 FR 66563
NPRM Comment Period Reopened	01/16/09	74 FR 2907
NPRM Comment Period End	03/17/09	
NPRM; Notice of Public Scoping Session	03/11/09	74 FR 10517
NPRM Comment Period Reopened	04/13/09	74 FR 16797
NPRM Comment Period End	06/29/09	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Agency Contact: John Turner Phone: 301 734–5720

RIN: 0579–AC31

199. ANIMAL WELFARE; CLIMATIC AND ENVIRONMENTAL CONDITIONS FOR TRANSPORTATION OF WARM–BLOODED ANIMALS OTHER THAN MARINE MAMMALS

Legal Authority: 7 USC 2131 to 2159

Abstract: This rulemaking would amend the Animal Welfare Act regulations regarding transportation of live animals other than marine mammals by removing the current ambient temperature requirements for various stages in the transportation of those animals. The action would replace those requirements with a single performance standard under which the animals would be transported under climatic and environmental conditions that are

appropriate for their welfare. The regulations currently require that ambient temperatures be maintained within certain ranges during transportation, but animals may be transported at ambient temperatures below the minimum temperatures if their consignor provides a certificate signed by a veterinarian certifying that the animals are acclimated to temperatures lower than the minimum temperature. This proposal would make acclimation certificates for live animals other than marine mammals unnecessary. This rulemaking does not address marine mammals due to their unique requirements for care and handling. We believe that establishing a single performance standard would ensure that warm-blooded animals other than marine mammals are transported in climatic and environmental conditions that are not detrimental to their welfare while allowing for variations in climatic and environmental conditions that are suitable for individual animals.

Timetable:

Action	Date	FR Cite
NPRM	01/03/08	73 FR 413
NPRM Comment Period End	03/03/08	
NPRM Comment Period Reopened	03/18/08	73 FR 14403
NPRM Comment Period End	04/17/08	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Gerald Rushin
Phone: 301 734–0954

RIN: 0579–AC41

200. LIGHT BROWN APPLE MOTH QUARANTINE

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786

Abstract: We are quarantining 16 counties in California and the entire State of Hawaii because of the light brown apple moth and restricting the interstate movement of regulated articles from the quarantined areas. This action is necessary on an emergency basis to prevent the spread of the light brown apple moth into noninfested areas of the United States.

Timetable:

Action	Date	FR Cite
Interim Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Andrea Simao
Phone: 301 734–0930

RIN: 0579–AC71

201. CITRUS GREENING AND ASIAN CITRUS PSYLLID; QUARANTINE AND INTERSTATE MOVEMENT REGULATIONS

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786; 21 USC 136 and 136a

Abstract: This rulemaking establishes regulations that designate the States of Florida and Georgia, Puerto Rico, two parishes in Louisiana, and two counties in South Carolina as quarantined areas for citrus greening and Alabama, Florida, Guam, Hawaii, Puerto Rico, Louisiana, Mississippi, Texas, three counties in South Carolina, portions of one county in Arizona, and all of three and portions of an additional three counties in California as quarantined areas for Asian citrus psyllid, a vector of a bacterium that causes citrus greening. It also establishes restrictions on the interstate movement of regulated articles from the quarantined areas, as well as treatments under which Asian Citrus psyllid host material may be moved interstate from a quarantined area. These actions follow the discovery of citrus greening and/or Asian citrus psyllid in the quarantined areas, and are necessary in order to prevent the spread of the disease and its vector to noninfested areas of the United States.

Timetable:

Action	Date	FR Cite
Availability of an Environmental Assessment	09/09/09	74 FR 46409
Environmental Assessment Comment Period End	11/09/09	
Interim Final Rule	06/17/10	75 FR 34322
Interim Final Rule Comment Period End	08/16/10	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Patrick J. Gomes
Phone: 919 855–7313

RIN: 0579–AC85

Department of Agriculture (USDA)
Animal and Plant Health Inspection Service (APHIS)

Completed Actions

202. PHYTOSANITARY CERTIFICATES FOR IMPORTED FRUITS AND VEGETABLES

Legal Authority: 7 USC 450; 7 USC 7701 to 7772; 7 USC 7781 to 7786; 21 USC 136 and 136a

Abstract: Currently APHIS does not require a phytosanitary certificate to accompany fruits and vegetables imported into the United States except for certain fruits and vegetables grown in designated foreign regions. This rule will require that a phytosanitary certificate accompany noncommercial consignments of fresh fruits and vegetables imported into the United States by air passengers.

Completed:

Reason	Date	FR Cite
Withdrawn: Canceled by the Program	07/09/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Evelia Sosa
Phone: 301 734–8295

RIN: 0579–AB18

203. CITRUS CANKER; QUARANTINE OF THE STATE OF FLORIDA

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786

Abstract: This action follows an interim rule that amended the citrus canker regulations to list the entire State of Florida as a quarantined area for citrus canker and amended the requirements for the movement of regulated articles from Florida now that the eradication of citrus canker in Florida is no longer being carried out as an objective. It also amended the regulations to allow regulated articles

USDA—APHIS **Completed Actions**

that would not otherwise be eligible for interstate movement to be moved to a port for immediate export. These changes were necessary in light of the Department's determination that the established eradication program was no longer a scientifically feasible option to address citrus canker.

Completed:

Reason	Date	FR Cite
Withdrawn: No Action Anticipated Within the Next 12 Months	08/10/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Stephen Poe
Phone: 301 734–4387

RIN: 0579–AC07

204. MINIMUM AGE REQUIREMENTS FOR THE TRANSPORT OF ANIMALS

Legal Authority: 7 USC 2131 to 2159

Abstract: This rulemaking would amend the Animal Welfare Act regulations by adding minimum age and weaning requirements for the transport in commerce of animals. The regulations currently contain such requirements for dogs and cats, but no corresponding ones for other regulated animals, despite the risks associated with the early transport of these species. The rule would also provide an exemption to allow animals to be transported without their mothers for medical treatment and for scientific research before reaching the minimum age and weaning requirement, provided certain conditions are met. Establishing minimum age requirements for the transport of animals and providing for the transport of animals that have not met the minimum age requirements are necessary to help ensure the humane treatment of these animals.

Completed:

Reason	Date	FR Cite
Withdrawn: No Action Anticipated Within the Next 12 Months	08/10/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Barbara Kohn
Phone: 301 734–7833

RIN: 0579–AC14

205. IMPORTATION OF LEMONS FROM NORTHWEST ARGENTINA

Legal Authority: 7 USC 450; 7 USC 7701 to 7772; 7 USC 7781 to 7786; 21 USC 136 and 136a

Abstract: This rulemaking would amend the fruits and vegetables regulations to allow the importation of lemons from northwest Argentina into the continental United States. Lemons from northwest Argentina would be required to be imported in commercial consignments, produced and packed under specified conditions, treated with a surface disinfectant and inspected for quarantine pests before shipping, and accompanied by a phytosanitary certificate. This action would allow for the importation of lemons from northwest Argentina into the United States while continuing to provide protection against the introduction of quarantine pests.

Completed:

Reason	Date	FR Cite
Withdrawn: No Action Anticipated Within the Next 12 Months	08/18/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Meredith Jones
Phone: 301 734–7467

RIN: 0579–AC79

206. SIREX WOODWASP; QUARANTINE AND REGULATIONS

Legal Authority: 7 USC 7701 to 7772; 7 USC 7781 to 7786; 21 USC 136 and 136a

Abstract: This rulemaking will quarantine counties in Michigan, New Jersey, New York, Ohio, Pennsylvania, and Vermont because of the Sirex woodwasp and establish restrictions on the interstate movement of regulated articles from these quarantined areas. This action is necessary on an emergency basis to prevent the artificial spread of this plant pest to noninfested areas of the United States.

Completed:

Reason	Date	FR Cite
Withdrawn: Canceled by the Program	07/09/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Lynn Evans–Goldner
Phone: 301 734–7228

RIN: 0579–AC86

BILLING CODE 3410—34—S

Department of Agriculture (USDA) Rural Housing Service (RHS)

Final Rule Stage

207. GUARANTEED SINGLE–FAMILY HOUSING

Legal Authority: 5 USC 301; 7 USC 1989; 42 USC 1480

Abstract: The Guaranteed Single-Family Housing program will provide better clarity and consistency within the program. The action is taken to update the regulations to current mortgage industry standards and provide more guidance on program oversight and monitoring.

Timetable:

Action	Date	FR Cite
NPRM	12/15/99	64 FR 70124
NPRM Comment Period End	02/14/00	
Final Action	12/00/10	
Final Action Effective	01/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Joaquin Tremols, Acting Director, Single–Family Housing Guaranteed Loan Division, Department of Agriculture, Rural Housing Service, 1400 Independence Avenue SW, STOP 0784, Washington, DC 20250
Phone: 202 720–1465
Fax: 202 205–2476
Email: joaquin.tremols@wdc.usda.gov

RIN: 0575–AC18

BILLING CODE 3410—XV—S

Department of Agriculture (USDA)
Food Safety and Inspection Service (FSIS)

Proposed Rule Stage

208. MANDATORY INSPECTION OF CATFISH AND CATFISH PRODUCTS

Regulatory Plan: This entry is Seq. No. 18 in part II of this issue of the **Federal Register**.

RIN: 0583–AD36

Department of Agriculture (USDA)
Food Safety and Inspection Service (FSIS)

Final Rule Stage

209. PERFORMANCE STANDARDS FOR THE PRODUCTION OF PROCESSED MEAT AND POULTRY PRODUCTS; CONTROL OF LISTERIA MONOCYTOGENES IN READY–TO–EAT MEAT AND POULTRY PRODUCTS

Regulatory Plan: This entry is Seq. No. 21 in part II of this issue of the **Federal Register**.

RIN: 0583–AC46

210. FEDERAL–STATE INTERSTATE SHIPMENT COOPERATIVE INSPECTION PROGRAM

Regulatory Plan: This entry is Seq. No. 24 in part II of this issue of the **Federal Register**.

RIN: 0583–AD37

211. NEW FORMULAS FOR CALCULATING THE BASETIME, OVERTIME, HOLIDAY, AND LABORATORY SERVICES RATES; RATE CHANGES BASED ON THE FORMULAS; AND INCREASED FEES FOR THE ACCREDITED LABORATORY PROGRAM

Legal Authority: 7 USC 1621 et seq; 21 USC 601 et seq; 21 USC 451 et seq; 21 USC 1031 et seq

Abstract: FSIS is amending its regulations to establish formulas for calculating the rates that it charges meat and poultry establishments, egg products plants, and importers and exporters for providing voluntary, overtime, and holiday inspection, and identification, certification, and laboratory services. FSIS will publish the rates annually in Federal Register notices prior to the start of each calendar year and will apply them on the first FSIS pay period at the beginning of the calendar year. The Agency is also increasing the codified flat annual fee for its Accredited Laboratory Program for FY 2012 and FY 2013.

Timetable:

Action	Date	FR Cite
NPRM	10/08/09	74 FR 51800
NPRM Comment Period End	11/09/09	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Rachel Edelstein, Director, Policy Issuances Division, Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720–0399
Fax: 202 690–0486
Email: rachel.edelstein@fsis.usda.gov

RIN: 0583–AD40

212. ● CHANGES TO THE SCHEDULE OF OPERATIONS REGULATIONS

Legal Authority: 21 USC 601 ; 21 USC 451

Abstract: FSIS is proposing to amend the meat, poultry products, and egg products regulations pertaining to the schedule of operations.

Timetable:

Action	Date	FR Cite
NPRM	08/09/10	75 FR 47726
NPRM Comment Period End	09/08/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Rachel Edelstein, Director, Policy Issuances Division, Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Washington, DC 20250
Phone: 202 720–0399
Fax: 202 690–0486
Email: rachel.edelstein@fsis.usda.gov

RIN: 0583–AD42

BILLING CODE 3410—DM—S

Department of Agriculture (USDA)
Forest Service (FS)

Proposed Rule Stage

213. SPECIAL AREAS; STATE–SPECIFIC INVENTORIED ROADLESS AREA MANAGEMENT: COLORADO

Legal Authority: Not Yet Determined

Abstract: On April 11, 2007, Governor of Colorado Ritter submitted a petition under the provisions of the Administrative Procedure Act (5 U.S.C. 553(e)) and Agriculture Department regulation (7 CFR 1.28) to promulgate regulations, in cooperation with the State, for the management of inventoried roadless areas within the State of Colorado. After review and recommendation by the Roadless Area Conservation National Advisory Committee, the Secretary accepted the Governor's petition and initiated a proposed rulemaking for inventoried roadless areas in Colorado. The proposed rulemaking would manage Colorado's inventoried roadless areas by prohibiting road building and tree cutting, with some exceptions, on 4.1 million acres of inventoried roadless areas in Colorado. The 4.1 million acres reflect the most updated IRA boundaries for Colorado, which incorporate planning rule revisions since 2001 on several Colorado national forests. Inventoried roadless areas that

USDA—FS **Proposed Rule Stage**

are allocated to ski area special uses (approximately 10,000 acres) would also be removed from roadless designation. Road construction and reconstruction plus timber harvesting would be prohibited in inventoried roadless areas, with some exceptions, on the Arapaho-Roosevelt, Grand Mesa-Uncompahgre, Gunnison, Manti-La Sal, Pike-San Isabel, Rio Grande, Routt, San Juan, and White River National Forests in Colorado. Exceptions to the prohibitions would be allowed for certain health, safety, valid existing rights, resource protection, and ecological management needs.

Web site: http://roadless.fs.fed.us

Timetable:

Action	Date	FR Cite
NPRM	07/25/08	73 FR 43544
NPRM Comment Period End	10/23/08	
Second NPRM	01/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Lorrie Parker, Regulatory Analyst, Department of Agriculture, Forest Service, ATTN: ORMS, D&R Branch, 1400 Independence Avenue SW, Washington, DC 20250–0003
Phone: 202 205–6560
Fax: 202 205–6539
Email: lsparker@fs.fed.us

RIN: 0596–AC74

BILLING CODE 3410—11—S

Department of Agriculture (USDA)
Office of the Secretary (AgSEC) **Proposed Rule Stage**

214. DESIGNATION OF BIOBASED ITEMS FOR FEDERAL PROCUREMENT, ROUND 7

Legal Authority: PL 110–246

Abstract: Designates bath products; concrete and asphalt cleaners, including microbial and non-microbial concrete and asphalt cleaners as subcategories; corrosion removers; dishwashing detergents; floor cleaners and protectors; hair cleaning products, including shampoos and conditioners as subcategories; microbial cleaners; oven and grill cleaners; slide way lubricants; and thermal shipping containers, including durable and non-durable thermal shipping containers as subcategories.

Timetable:

Action	Date	FR Cite
NPRM	11/23/10	75 FR 71492
NPRM Comment Period End	01/24/11	
Final Action	06/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Ron Buckhalt, Manager, BioPreferred Program, Office of Procurement and Policy Management, Department of Agriculture, 361 Reporters Building, 300 7th Street SW, Washington, DC 20250
Phone: 202 205–4008
Fax: 202 720–8972
Email: ronb.buckhalt@da.usda.gov

RIN: 0503–AA36

215. DESIGNATION OF BIOBASED ITEMS FOR FEDERAL PROCUREMENT, ROUND 8

Legal Authority: PL 110–246

Abstract: Designates an additional 15 groups of biobased products for preferred procurement.

Timetable:

Action	Date	FR Cite
NPRM	04/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Ron Buckhalt, Manager, BioPreferred Program, Office of Procurement and Policy Management, Department of Agriculture, 361 Reporters Building, 300 7th Street SW, Washington, DC 20250
Phone: 202 205–4008
Fax: 202 720–8972
Email: ronb.buckhalt@da.usda.gov

RIN: 0503–AA39

216. REVISED PROGRAM GUIDELINES

Legal Authority: PL 110–246

Abstract: The 2008 Farm Bill requires USDA to address how the BioPreferred Program will designate complex products and intermediate materials and feed stocks and make other changes to update program guidelines.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Ron Buckhalt, Manager, BioPreferred Program, Office of Procurement and Policy Management, Department of Agriculture, 361 Reporters Building, 300 7th Street SW, Washington, DC 20250
Phone: 202 205–4008
Fax: 202 720–8972
Email: ronb.buckhalt@da.usda.gov

RIN: 0503–AA40

Department of Agriculture (USDA)
Office of the Secretary (AgSEC) **Final Rule Stage**

217. VOLUNTARY LABELING PROGRAM FOR DESIGNATED BIOBASED PRODUCTS

Legal Authority: PL 110–246

Abstract: The purpose of the program is to provide a ''USDA Certified Biobased Product'' label for use on biobased products meeting certain criteria to be established in the proposed rule, to specify those criteria for gaining use of the label, establish a system to make the label available to manufacturers and vendors of biobased products, and to establish the labeling program.

Timetable:

Action	Date	FR Cite
NPRM	07/31/09	74 FR 38296

USDA—AgSEC

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	09/29/09	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Ron Buckhalt, Manager, BioPreferred Program, Office of Procurement and Policy Management, Department of Agriculture, 361 Reporters Building, 300 7th Street SW, Washington, DC 20250

Phone: 202 205–4008
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RIN: 0503–AA35

[FR Doc. 2010–30451 Filed 12–17–10; 8:45 am]

BILLING CODE 3410–90–S

Federal Register

Monday,
December 20, 2010

Part IV

Department of Commerce

Semiannual Regulatory Agenda

DEPARTMENT OF COMMERCE (DOC)

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. I, II, III, VII, VIII, IX, and XI

19 CFR Ch. III

37 CFR Chs. I, IV, and V

48 CFR Ch. 13

50 CFR Chs. II, III, IV, and VI

Fall 2010 Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: Semiannual regulatory agenda.

SUMMARY: In compliance with Executive Order 12866 entitled ''Regulatory Planning and Review'' and the Regulatory Flexibility Act, as amended, the Department of Commerce (Department), in the spring and fall of each year, publishes in the **Federal Register** an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the spring 2010 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's fall 2010 regulatory agenda includes regulatory activities that are expected to be conducted during the period October 1, 2010, through September 30, 2011.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Asha Mathew, Chief Counsel for Regulation, Office of the Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230; telephone: 202-482-3151.

SUPPLEMENTARY INFORMATION: The Department hereby publishes its fall 2010 Unified Agenda of Federal Regulatory and Deregulatory Actions pursuant to Executive Order 12866 and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Executive Order 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of July 23, 2010, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the fall 2010 Unified Agenda. The Regulatory Flexibility Act requires agencies to publish, in the spring and fall of each year, a regulatory flexibility agenda that contains a brief description of the subject of any rule likely to have a significant economic impact on a substantial number of small entities, and a list that identifies those entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

In this edition of the Department's regulatory agenda, a list of the most important significant regulatory actions and a Statement of Regulatory Priorities are included in the Regulatory Plan, which appears in both the online Unified Agenda and in part II of the issue of the **Federal Register** that includes the Unified Agenda.

In addition, beginning with the fall 2007 edition, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at www.reginfo.gov, in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act, the Department's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, the Department's entire Regulatory Plan will continue to be printed in the **Federal Register**.

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units, such as the National Oceanic and Atmospheric Administration (NOAA), the Bureau of Industry and Security, and the Patent and Trademark Office issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of NMFS' programs, an ''Explanation of Information Contained in NMFS Regulatory Entries'' is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (the Act) governs the management of fisheries within the Exclusive Economic Zone of the United States (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries that require conservation and management measures. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing may be conducted in a fishery in which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

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The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

The Department's fall 2010 regulatory agenda follows.

Cameron F. Kerry,
General Counsel.

International Trade Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
218	Commercial Availability of Fabric and Yarn	0625–AA59

National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
219	Maximize Retention and Monitoring Program in the Shore-Based Pacific Whiting Fishery	0648–AR63
220	American Lobster Fishery; Fishing Effort Control Measures To Complement Interstate Lobster Management Recommendations by the Atlantic States Marine Fisheries Commission	0648–AT31
221	Collection and Use of Tax Identification Numbers From Holders of and Applicants for National Marine Fisheries Service Permits	0648–AV76
222	Marine Mammal Protection Act Stranding Regulation Revisions	0648–AW22
223	Amendment 4 to the Atlantic Herring Fishery Management Plan	0648–AW75
224	Allowable Modifications to the Turtle Excluder Device Requirements	0648–AW93
225	Regulatory Amendment To Correct and Clarify Amendment 13 and Subsequent Frameworks of the Northeast Multispecies Fishery Management Plan	0648–AW95
226	Amendment 11 to the Atlantic Mackerel, Squid, Butterfish Fishery Management Plan	0648–AX05
227	Amendment 30 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crabs Arbitration Regulations	0648–AX47
228	Amendment 3 to the Fishery Management Plan for Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands Establishing Compatible Regulations With U.S. Virgin Islands Territorial Waters	0648–AY03
229	Fisheries Off West Coast States and in the Western Pacific; Klamath River Fall Chinook Salmon Rebuilding Plan	0648–AY06
230	Amendment 3 to the Spiny Dogfish Fishery Management Plan	0648–AY12
231	Maximized Retention Monitoring Program for Catcher Vessels in the Pacific Whiting Mothership Fishery in the Pacific Coast Groundfish Fishery	0648–AY17
232	Generic Amendment for Annual Catch Limits	0648–AY22
233	Amendment 14 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan	0648–AY26
234	Fisheries in the Western Pacific; Pelagic Fisheries; Purse Seine Fishing With Fish Aggregation Devices	0648–AY36
235	Amendment 5 to the Atlantic Herring Fishery Management Plan	0648–AY47
236	Amendment 2 to the FMP for the Queen Conch Fishery of Puerto Rico and the U.S. Virgin Islands and Amendment 5 to the Reef Fish FMP of Puerto Rico and the U.S. Virgin Islands	0648–AY55
237	Amendment 10 to the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and South Atlantic	0648–AY72
238	Comprehensive Annual Catch Limits Amendment to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region	0648–AY73
239	Amendment 20 to the Snapper Grouper Fishery Management Plan of the South Atlantic Region	0648–AY74
240	Regulatory Amendment To Recover the Administrative Costs of Processing Permit Applications	0648–AY81
241	Regulatory Amendment To Correct and Clarify Amendment 16 and Subsequent Frameworks of the Northeast Multispecies Fisheries Management Plan	0648–AY95
242	Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2011-2012 Biennial Specifications and Management Measures	0648–BA01
243	2011 Specifications for the Atlantic Mackerel, Squid, and Butterfish Fishery	0648–BA03
244	Fishing Capacity Reduction Program for the Southeast Alaska Purse Seine Salmon Fishery	0648–BA13
245	Potential Revisions to the Turtle Excluder Device Requirements	0648–AV04
246	Marine Mammal Protection Act Permit Regulation Revisions	0648–AV82
247	Take and Import Marine Mammals: Take of Marine Mammals Incidental to Routine Operations of 13 Power Generating Stations in Central and Southern California	0648–AW59
248	Reduce Sea Turtle Bycatch in Atlantic Trawl Fisheries	0648–AY61

DOC

National Oceanic and Atmospheric Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
249	Amending Regulations for the Pacific Halibut, Sablefish, and Pollock Fisheries Conducted Under the Western Alaska Community Development Quota Program	0648–AV33
250	Certification of Nations Whose Fishing Vessels Are Engaged in Illegal, Unreported, and Unregulated Fishing or Bycatch of Protected Living Marine Resources **(Reg Plan Seq No. 28)**	0648–AV51
251	Magnuson-Stevens Fishery Conservation and Management Reauthorization Act Environmental Review Procedure	0648–AV53
252	Revise Regulations Governing the North Pacific Groundfish Observer Program	0648–AW24
253	Revoke Inactive Quota Share and Annual Individual Fishing Quota From a Holder of Quota Share Under the Pacific Halibut and Sablefish Fixed Gear Individual Fishing Quota Program	0648–AX91
254	Regulatory Amendment to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico Modifying the Bajo de Sico Seasonal Closure	0648–AY05
255	Amendment 17A to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region	0648–AY10
256	Amendment 17B to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region	0648–AY11
257	Amendment 94 for Bering Sea Modified Nonpelagic Trawl Gear Requirements, St. Matthew Island Habitat Conservation Area Revision, and Modified Gear Trawl Zone	0648–AY34
258	Regulatory Amendment to Revise Charter Halibut Logbook Submission Requirements at 50 CFR part 300	0648–AY38
259	Addendum IV to the Weakfish Interstate Management Plan—Bycatch Trip Limit	0648–AY41
260	Vessel Capacity Limits in the Purse Seine Fishery in the Eastern Pacific Ocean	0648–AY75
261	Emergency Rule To Re-Open the Recreational Red Snapper Season in the Gulf of Mexico	0648–BA06
262	Protective Regulations for Killer Whales in the Northwest Region Under the Endangered Species Act and Marine Mammal Protection Act	0648–AV15
263	Taking and Importing Marine Mammals; U.S. Naval Surface Warfare Center Panama City Division Mission Activities	0648–AW80
264	Rule To Revise the Critical Habitat Designation for the Endangered Leatherback Sea Turtle	0648–AX06
265	Critical Habitat Designation for Cook Inlet Beluga Whale Under the Endangered Species Act **(Reg Plan Seq No. 29)**	0648–AX50
266	Taking of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Training Operations Conducted Within the Gulf of Mexico Range Complex	0648–AX86

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

National Oceanic and Atmospheric Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
267	Fishery Management Plan for Regulating Offshore Marine Aquaculture in the Gulf of Mexico	0648–AS65
268	Provide Regulations for Permits for Capture, Transport, Import, and Export of Protected Species for Public Display, and for Maintaining a Captive Marine Mammal Inventory	0648–AH26

National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
269	South Atlantic Fishery Ecosystem Plan Comprehensive Amendment	0648–AV31
270	Amendment 17 to the South Atlantic Fishery Management Council Snapper Grouper Fishery Management Plan	0648–AW11
271	Amendment 2 to the Fishery Management Plan for the Queen Conch Fishery of Puerto Rico and the U.S. Virgin Islands	0648–AW15
272	Amendment 3 to the Northeast Skate Complex Fishery Management Plan	0648–AW30
273	Atlantic Highly Migratory Species; Atlantic Shark Management Measures	0648–AW65
274	Amendment 31 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648–AX67
275	Snapper-Grouper Fishery Management Plan of the South Atlantic	0648–AX75
276	Salmon Bycatch Reduction Management Measures for the Fishery Management Plan 91 in the Bering Sea Aleutian Islands	0648–AX89
277	2010 Summer Flounder, Scup, and Black Sea Bass Recreational Management Measures	0648–AY04
278	2010 to 2012 Atlantic Herring Fishery Specifications and Management Measures	0648–AY14
279	Remove Certain Reporting Requirements Under the Crab Rationalization Program	0648–AY28
280	Framework Adjustment 44 and Specifications for the Northeast Multispecies Fishery Management Plan	0648–AY29

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National Oceanic and Atmospheric Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
281	Framework 21 to the Atlantic Sea Scallop Fishery Management Plan	0648–AY43
282	Amendments 95/96/87 for the BSAI and GOA Groundfish FMPs for BSAI Skates and Groundfish Annual Catch Limits and Accountability Measures	0648–AY48
283	2010 Specifications and Management Measures for the Spiny Dogfish Fishery Management Plan	0648–AY50
284	Fishing Year 2010 Atlantic Deep-Sea Red Crab Specifications	0648–AY51
285	Regulatory Amendment to the Gulf of Mexico Reef Fish Fishery Management Plan To Set 2010 Management Measures for Red Snapper	0648–AY57
286	Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Interim 2010 Tribal Whiting Regulations	0648–AY59
287	Fisheries Off West Coast States; West Coast Salmon Fisheries; 2010 Management Measures	0648–AY60
288	2010 Atlantic Bluefin Tuna Quota Specifications	0648–AY77
289	Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Inseason Adjustments	0648–AY82
290	Inseason Adjustment to the FY 2010 Atlantic Deep Sea Red Crab Specifications	0648–AY88
291	Rulemaking To Establish Take Prohibitions for the Threatened Southern Distinct Population Segment of North American Green Sturgeon	0648–AV94

Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
292	Revision of USPTO Fees for Fiscal Year 2011	0651–AC43
293	Revision of USPTO Fees for Fiscal Year 2012	0651–AC44

Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
294	Interim Increase on Patent Fees for Fiscal Year 2011	0651–AC42

Department of Commerce (DOC) — Long-Term Actions

International Trade Administration (ITA)

218. COMMERCIAL AVAILABILITY OF FABRIC AND YARN

Legal Authority: PL 106–200, sec 112(b)(5)(B); PL 106–200, sec 211; EO 13191; PL 107–210, sec 3103

Abstract: This rule implements certain provisions of the Trade and Development Act of 2000 (the Act). Title I of the Act (the African Growth and Opportunity Act or AGOA), title II of the Act (the United States-Caribbean Basin Trade Partnership Act or CBTPA), and title XXXI of the Trade Act of 2002 (the Andean Trade Promotion and Drug Eradication Act or ATPDEA) provide for quota- and duty-free treatment for qualifying apparel products from designated beneficiary countries. AGOA and CBTPA authorize quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more designated beneficiary countries from yarn or fabric that is not formed in the United States or a beneficiary country, provided it has been determined that such yarn or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President has delegated to the Committee for the Implementation of Textile Agreements (the Committee), which is chaired by the Department of Commerce, the authority to determine whether yarn or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA, the ATPDEA, and the CBTPA, and has authorized the Committee to extend quota- and duty-free treatment to apparel of such yarn or fabric. The rule provides the procedure for interested parties to submit a request alleging that a yarn or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner, the procedure for public comments, and relevant factors that will be considered in the Committee's determination. The rule also outlines the factors to be considered by the Committee in extending quota- and duty-free treatment.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

DOC—ITA **Long-Term Actions**

Agency Contact: Janet Heinzen
Phone: 202 482–4006
Email: janet__heinzen@ita.doc.gov
RIN: 0625–AA59

Department of Commerce (DOC)
National Oceanic and Atmospheric Administration (NOAA)
Proposed Rule Stage

NATIONAL MARINE FISHERIES SERVICE

219. MAXIMIZE RETENTION AND MONITORING PROGRAM IN THE SHORE–BASED PACIFIC WHITING FISHERY

Legal Authority: 16 USC 1801 et seq

Abstract: The Pacific Fishery Management Council (Pacific Council) at their October 21-25, 1996, meeting in San Francisco, California addressed the treatment and disposition of salmon in the groundfish trawl fisheries, specifically the shore-based whiting fishery. At that meeting, the Pacific Council discussed the retention of salmon in the shore-based whiting fishery and took action to maintain a viable shore-based whiting fishery by using exempted fishing permits (EFPs). These EFPs allowed the shore-based whiting fleet to temporarily deliver unsorted catch to processing plants and provided for the monitoring of incidentally taken salmon until a permanent monitoring program could be implemented. In keeping with the Pacific Council's recommendation, NMFS is proceeding with implementing a monitoring program for the shore-based whiting fishery. This action will aid in the sustainable management of Pacific Coast salmon and groundfish fisheries while providing an important economic opportunity to those associated with the harvest, processing, and selling of whiting taken by the shore-based whiting fleet. The need for implementing a permanent monitoring program in the shore-based Pacific whiting fishery is to provide for a full retention fishery by enabling the shore-based whiting fleet, comprised exclusively of catcher vessels, to deliver unsorted catch to processing plants. This practice is necessary to ensure that whiting landings are of market quality, while abiding by Federal groundfish regulations and those implementing the Pacific Coast salmon and groundfish fishery management plans (FMPs).

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	
NPRM Comment Period End	03/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Barry Thom, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, Building 1, 7600 Sand Point Way NE., Seattle, WA 48115–0070
Phone: 206 526–6150
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RIN: 0648–AR63

220. AMERICAN LOBSTER FISHERY; FISHING EFFORT CONTROL MEASURES TO COMPLEMENT INTERSTATE LOBSTER MANAGEMENT RECOMMENDATIONS BY THE ATLANTIC STATES MARINE FISHERIES COMMISSION

Legal Authority: 16 USC 5101 et seq

Abstract: The National Marine Fisheries Service announces that it is considering, and seeking public comment on, revisions to Federal American lobster regulations for the Exclusive Economic Zone (EEZ) associated with effort control measures as recommended for Federal implementation by the Atlantic States Marine Fisheries Commission (ASFMC) and as outlined in the Interstate Fishery Management Plan (ISFMP) for American Lobster. This action will evaluate effort control measures in certain Lobster Conservation Management Areas including: Limits on future access based on historic participation criteria; procedures to allow trap transfers among qualifiers and impose a trap reduction or conservation tax on any trap transfers; and a trap reduction schedule to meet the goals of the ISFMP.

Timetable:

Action	Date	FR Cite
ANPRM	05/10/05	70 FR 24495
ANPRM Comment Period End	06/09/05	
Notice of Public Meeting	05/03/10	75 FR 23245
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930
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RIN: 0648–AT31

221. COLLECTION AND USE OF TAX IDENTIFICATION NUMBERS FROM HOLDERS OF AND APPLICANTS FOR NATIONAL MARINE FISHERIES SERVICE PERMITS

Legal Authority: 31 USC 7701; 16 USC 1801 et seq; 16 USC 1361 et seq; 16 USC 1531 et seq

Abstract: Pursuant to the Debt Collection Improvement Act of 1996 (Debt Collection Act), the National Marine Fisheries Service (NMFS) will issue a rule to require that each existing holder of and future applicant for a permit, license, endorsement, authorization, transfer or like instrument issued by the agency provide a Taxpayer Identification Number (TIN) (business, employer identification number or individual's social security number) and Date of Incorporation or Date of Birth, as appropriate. Under the Debt Collection Act, NMFS is required to collect the TIN to report on and collect any delinquent non-tax debt owed to the Federal Government. NMFS plans to use Date of Incorporation or Date of Birth information for administrative aspects of permitting procedures with appropriate confidentiality safeguards pursuant to the Privacy Act. The rule

will specify: (a) the particular uses that may be made of the reported TIN; (b) the effects, if any, of not providing the required information; (c) how the information will be used to ascertain if the permit holder or applicant owes delinquent non-tax debt to the Government pursuant to the Debt Collection Act; (d) the effects on the permit holder or applicant when such delinquent debts are owed; and (e) the agency's intended communications with the permit holder or applicant regarding the relationship of such delinquent debts to its permitting process and the need to resolve such debts as a basis for completing permit issuance or renewal. The rule will amend existing agency permit regulations and contain all appropriate modified and new collections-of-information pursuant to the Paperwork Reduction Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Alan Risenhoover, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Room 13362, 1315 East–West Highway, Silver Spring, MD 20910
Phone: 301 713–2334
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RIN: 0648–AV76

222. MARINE MAMMAL PROTECTION ACT STRANDING REGULATION REVISIONS

Legal Authority: 16 USC 1379; 16 USC 1382; 16 USC 1421

Abstract: The National Marine Fisheries Service (NMFS) is considering changes to its implementing regulations (50 CFR 216) governing the taking of stranded marine mammals under section 109(h), section 112(c), and Title IV of the Marine Mammal Protection Act and is soliciting public comment to better inform the process. NMFS intends to clarify the requirements and procedures for responding to stranded marine mammals and for determining the disposition of rehabilitated marine mammals, which includes the procedures for the placement of non-releasable animals and for authorizing the retention of releasable rehabilitated marine mammals for scientific research, enhancement, or public display. This action will be analyzed under the National Environmental Policy Act with an Environmental Assessment.

Timetable:

Action	Date	FR Cite
ANPRM	01/31/08	73 FR 5786
ANPRM Comment Period End	03/31/08	
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: David Cottingham, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East–West Highway, Silver Spring, MD 20910
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Email: david.cottingham@noaa.gov

RIN: 0648–AW22

223. AMENDMENT 4 TO THE ATLANTIC HERRING FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

Abstract: The goal of Amendment 4 is to improve catch monitoring and ensure compliance with the Reauthorized Magnuson-Stevens Fishery Conservation and Management Act (MSRA). The management measures developed in this amendment may address one or more of the following objectives: (1) To implement measures to improve the long-term monitoring of catch (landings and bycatch) in the herring fishery; (2) to implement annual catch limits and accountability measures consistent with the MSRA; (3) to implement other management measures as necessary to ensure compliance with the new provisions of the MSRA; (4) to develop a sector allocation process or other limited access privilege program for the herring fishery; and (5) in the context of objectives 1-4 (above), to consider the health of the herring resource and the important role of herring as a forage fish and a predator fish throughout its range.
The New England Fishery Management Council will develop conservation and management measures to address the issues identified above and meet the goals/objectives of the amendment. Any conservation and management measures developed in this amendment also must comply with all applicable laws.

Timetable:

Action	Date	FR Cite
Notice of Intent	05/08/08	73 FR 26082
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930
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Email: pat.kurkul@noaa.gov

RIN: 0648–AW75

224. ALLOWABLE MODIFICATIONS TO THE TURTLE EXCLUDER DEVICE REQUIREMENTS

Legal Authority: 16 USC 1531 et seq

Abstract: NMFS proposes to revise the Turtle Excluder Device (TED) requirements to allow new materials and modifications to existing approved TED designs. Specifically, proposed allowable modifications include the use of flat bar, box pipe, and oval pipe for use in currently-approved TED grids; an increase in mesh size on escape flaps from 1-5/8 inches to 2 inches; the use of the Boone single straight cut and triangular escape openings; specifications on the use of TED grid brace bars; and the use of the Chauvin Shrimp Kicker to improve shrimp retention.

Timetable:

Action	Date	FR Cite
NPRM	05/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Michael Barnette, Department of Commerce, National Oceanic and Atmospheric Administration, 263 Thirteenth Avenue South, St. Petersburg, FL 33701
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RIN: 0648–AW93

225. REGULATORY AMENDMENT TO CORRECT AND CLARIFY AMENDMENT 13 AND SUBSEQUENT FRAMEWORKS OF THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

Abstract: This action would make corrections and clarifications to the final rule implementing Amendment 13 to the Northeast Multispecies Fishery Management Plan, as well as subsequent groundfish actions. These corrections are administrative in nature and are intended to correct inaccurate references and other inadvertent errors and to clarify specific regulations to maintain consistency with the intent of Amendment 13 and subsequent actions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930
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RIN: 0648–AW95

226. AMENDMENT 11 TO THE ATLANTIC MACKEREL, SQUID, BUTTERFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

Abstract: Amendment 11 to the Atlantic Mackerel, Squid, Butterfish Fishery Management Plan may consider: (1) limited access in the Atlantic mackerel (mackerel) fishery; (2) implementation of annual catch limits (ACLs) and accountability measures (AMs) for mackerel and butterfish required under the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA); (3) updating of the description and identification of essential fish habitat (EFH) for all life stages of mackerel, Loligo squid, Illex squid, and butterfish (including gear impacts on Loligo squid egg EFH); and (4) possible limitations on at-sea processing of mackerel.

Timetable:

Action	Date	FR Cite
Notice of Intent	08/11/08	73 FR 46590
NPRM	02/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930
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RIN: 0648–AX05

227. AMENDMENT 30 TO THE FISHERY MANAGEMENT PLAN FOR BERING SEA AND ALEUTIAN ISLANDS KING AND TANNER CRABS ARBITRATION REGULATIONS

Legal Authority: 16 USC 1862; PL 109–241; PL 109–479

Abstract: This action would implement Amendment 30 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crabs to make minor modifications to the arbitration system used to settle price and other disputes among harvesters and processors in the Bering Sea/Aleutian Islands crab rationalization program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: James Balisger, Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
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RIN: 0648–AX47

228. AMENDMENT 3 TO THE FISHERY MANAGEMENT PLAN FOR QUEEN CONCH RESOURCES OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS ESTABLISHING COMPATIBLE REGULATIONS WITH U.S. VIRGIN ISLANDS TERRITORIAL WATERS

Legal Authority: 16 USC 1801 et seq

Abstract: At the June 2009 Council meeting, the Caribbean Fishery Management Council decided to amend the Fishery Management Plan for Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands (U.S.V.I.) to establish compatible regulations with U.S.V.I. territorial regulations. Currently, fishing for and possession of Queen Conch is prohibited in the Exclusive Economic Zone, with the exception of an area known as Lang Bank east of St. Croix, which is open to harvest of Queen Conch from October 1 through June 30. In U.S.V.I. territorial waters, Queen Conch is managed under a 50,000 pound quota. This action would implement compatible regulations which will close the harvest of Queen Conch in federal waters, including Lang Bank, once the quota has been reached in the U.S.V.I. and the fishery is closed in territorial waters.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Roy E Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Ave South, Saint Petersburg, FL 33701
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RIN: 0648–AY03

229. FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC; KLAMATH RIVER FALL CHINOOK SALMON REBUILDING PLAN

Legal Authority: 16 USC 1854

Abstract: This action would adopt a rebuilding plan for the Klamath River Fall Chinook salmon (KRFC) stock, which failed to meet conservation objectives specified in the Fishery Management Plan for the three year period 2004-2006.

Timetable:

Action	Date	FR Cite
NPRM	05/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Alan Risenhoover, Director, Office of Sustainable

Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Room 13362, 1315 East–West Highway, Silver Spring, MD 20910
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RIN: 0648–AY06

230. AMENDMENT 3 TO THE SPINY DOGFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801

Abstract: The New England and Mid-Atlantic Fishery Management Councils (Councils) announce their intention to prepare, in cooperation with NMFS, an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act to assess potential effects on the human environment of alternative measures to address several issues regarding the Spiny Dogfish Fishery Management Plan (FMP). Issues that may be addressed include: initiating a Research Set-Aside provision; specifying the spiny dogfish quota and/or possession limits by sex; adding a recreational fishery to the FMP; identifying commercial quota allocation alternatives; and establishing a limited access fishery.

Timetable:

Action	Date	FR Cite
Notice of Intent to Begin Scoping	08/05/09	74 FR 39063
Notice of Intent Comment Period End	09/04/09	
Notice of Intent to Prepare an EIS	05/13/10	75 FR 26920
NOI Comment Period End	06/01/10	
NPRM	05/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930
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RIN: 0648–AY12

231. MAXIMIZED RETENTION MONITORING PROGRAM FOR CATCHER VESSELS IN THE PACIFIC WHITING MOTHERSHIP FISHERY IN THE PACIFIC COAST GROUNDFISH FISHERY

Legal Authority: 16 USC 1801

Abstract: The action would implement a monitoring program for catcher vessels in the mothership sector of the Pacific whiting fishery off the coast of Washington, Oregon, and California. The monitoring program would consist of a camera and other sensors to monitor fishing activity in order to maintain the integrity of the maximized retention requirements found at 50 CFR 660.306 (f)(7). Maximized retention encourages full retention of all catch while allowing minor discard events to occur. This ensures that unsorted catch is available for observers to monitor on board the mothership processors and thereby maintains the integrity of data collected under the observer program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Frank Lockhart, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115
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RIN: 0648–AY17

232. GENERIC AMENDMENT FOR ANNUAL CATCH LIMITS

Legal Authority: 16 USC 1801

Abstract: The generic amendment is intended to modify five of the Gulf of Mexico Fishery Management Council's Fishery Management Plans (FMPs). These include FMPs for: Reef Fish Resources, Shrimp, Stone Crab, Coral and Coral Reef Resources, and Red Drum. NMFS and the Council will develop these Annual Catch Limits (ACLs) in co-operation with the Scientific and Statistical Committee and the Southeast Fisheries Science Center. NMFS, in collaboration with the Council, will develop a Draft Environmental Impact Statement to evaluate alternatives and actions for the ACLs. Some examples of these actions include: establishing sector specific ACLs, selecting levels of risk associated with species yields, considering removal or withdrawal of species from FMPs, and delegating species or species assemblages to state regulators.

Timetable:

Action	Date	FR Cite
Notice of Intent	08/04/09	74 FR 47206
NPRM	05/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Roy E Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Ave South, Saint Petersburg, FL 33701
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RIN: 0648–AY22

233. AMENDMENT 14 TO THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

Abstract: The purpose of Amendment 14 is to consider catch shares in the Loligo and Illex fisheries and monitoring/mitigation for river herring bycatch in mackerel, squid and butterfish (MSB) fisheries.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930
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RIN: 0648–AY26

234. FISHERIES IN THE WESTERN PACIFIC; PELAGIC FISHERIES; PURSE SEINE FISHING WITH FISH AGGREGATION DEVICES

Legal Authority: 16 USC 1801 et seq

Abstract: The Western Pacific Council is amending the Pelagics Fishery

Ecosystem Plan (FEP) to (1) define fish aggregating devices (FADs) as purposefully-deployed or instrumented floating objects, (2) require FADs to be registered, and (3) prohibit purse seine fishing using FADs in the US EEZ of the western Pacific. The objective of this action is to appropriately balance the needs and concerns of the western Pacific pelagic fishing fleets and associated fishing communities with the conservation of tuna stocks in the western Pacific.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Alvin Katekaru, Assistant Regional Administrator, Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Honolulu, HI 96814
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RIN: 0648–AY36

235. AMENDMENT 5 TO THE ATLANTIC HERRING FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801

Abstract: Amendment 5 to the Atlantic Herring Fishery Management Plan will consider: catch monitoring program; interactions with river herring; access by herring midwater trawl vessels in groundfish closed areas; and interactions with the mackerel fishery.

Timetable:

Action	Date	FR Cite
NPRM	11/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930
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RIN: 0648–AY47

236. AMENDMENT 2 TO THE FMP FOR THE QUEEN CONCH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS AND AMENDMENT 5 TO THE REEF FISH FMP OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Legal Authority: 16 USC 1801 et seq

Abstract: The Magnuson-Stevens Fishery Conservation and Management Act (MSRA: Public Law 94-265), as amended through January 12, 2007, requires the establishment of annual catch limits (ACLs) and accountability measures (AMs) during 2010 for all species that are considered to be overfished or undergoing overfishing. The present amendment is being promulgated to meet those MSRA mandates as well as to establish framework procedures with which to effect future changes to the management plan and to restructure the fisheries management units for grouper and snapper. Various alternatives are included in the draft amendment, including maintenance of the status quo for each action as well as various alternatives regarding the year-sequences used to establish ACLs and the strategies to be employed to account for overages and to respond to needed changes in management methods.

Timetable:

Action	Date	FR Cite
NPRM	05/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Roy E Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Ave South, Saint Petersburg, FL 33701
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RIN: 0648–AY55

237. • AMENDMENT 10 TO THE FISHERY MANAGEMENT PLAN FOR SPINY LOBSTER IN THE GULF OF MEXICO AND SOUTH ATLANTIC

Legal Authority: 16 USC 1801

Abstract: In 2006 the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) was re-authorized and included a number of changes to improve conservation of managed fishery resources. Included in these changes are requirements that the Regional Councils must establish both a mechanism for specifying annual catch limits (ACLs) at a level such that overfishing does not occur in the fishery and accountability measures (AMs) to correct if overages occur. Accountability measures are management controls to prevent the ACLs from being exceeded and to correct by either in-season or post-season measures if they do occur. The Spiny Lobster fishery is jointly managed by the Gulf and South Atlantic Councils. Amendment 10 to the FMP will set ACLs and AMs, review current regulations, and implement reasonable and prudent measures from the Biological Opinion.

Timetable:

Action	Date	FR Cite
Notice of Intent	11/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Roy E Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Ave South, Saint Petersburg, FL 33701
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RIN: 0648–AY72

238. • COMPREHENSIVE ANNUAL CATCH LIMITS AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER GROUPER FISHERY OF THE SOUTH ATLANTIC REGION

Legal Authority: 16 USC 1801 et seq

Abstract: The purpose of this amendment is to establish Annual Catch Limits (ACLs) and Accountability Measures (AMs) for species not undergoing overfishing, including management measures to reduce the probability that catches will exceed the stocks' ACLs pursuant to reauthorized Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requirements. Proposed actions include removal of species from the South Atlantic Snapper Grouper fishery management unit (FMU), designating some Snapper Grouper species as ecosystem component species, considering multi-species groupings for specifying ACLs, ACTs, and AMs, specifying allocations among the commercial, recreational, and for-hire sectors for species not undergoing overfishing, and modifying

management measures to limit total mortality to the ACL.

Timetable:

Action	Date	FR Cite
NPRM	11/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Roy E Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Ave South, Saint Petersburg, FL 33701
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RIN: 0648–AY73

239. ● AMENDMENT 20 TO THE SNAPPER GROUPER FISHERY MANAGEMENT PLAN OF THE SOUTH ATLANTIC REGION

Legal Authority: 16 USC 1801 et seq

Abstract: Amendment 20 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region consists of regulatory actions that focus on modifications to the wreckfish individual transferable quota (ITQ) program, bringing the program into compliance with the Reauthorized Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and make other administrative, monitoring, and enforcement changes.

Timetable:

Action	Date	FR Cite
NPRM	11/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Roy E Crabtree, Southeast Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Ave South, Saint Petersburg, FL 33701
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RIN: 0648–AY74

240. ● REGULATORY AMENDMENT TO RECOVER THE ADMINISTRATIVE COSTS OF PROCESSING PERMIT APPLICATIONS

Legal Authority: 16 USC 1801 et seq; 16 USC 1853; 16 USC 1854; 16 USC 3631 et seq; 16 USC 773 et seq; PL 108–447

Abstract: This action amends the fishery management plans of the North Pacific Fishery Management Council and revises federal regulations at 50 CFR 679 to recover the administrative costs of processing applications for permits required under those plans.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: James Balisger, Regional Administrator, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802
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RIN: 0648–AY81

241. ● REGULATORY AMENDMENT TO CORRECT AND CLARIFY AMENDMENT 16 AND SUBSEQUENT FRAMEWORKS OF THE NORTHEAST MULTISPECIES FISHERIES MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

Abstract: This action makes corrections and clarifications to the final rule implementing Amendment 16 to the Northeast Multispecies Fishery Management Plan, as well as subsequent groundfish actions. These corrections are administrative in nature and are intended to correct inaccurate references and other inadvertent errors and to clarify specific regulations to maintain consistency with the intent of Amendment 16 and subsequent actions.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930
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RIN: 0648–AY95

242. ● FISHERIES OFF WEST COAST STATES; PACIFIC COAST GROUNDFISH FISHERY; 2011–2012 BIENNIAL SPECIFICATIONS AND MANAGEMENT MEASURES

Legal Authority: 16 USC 1801 et seq

Abstract: This rule sets the 2011-2012 harvest specifications and management measures for groundfish taken in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California. This rule also implements Pacific Coast Groundfish Fishery Management Plan Amendments 16-5 and 23.

Timetable:

Action	Date	FR Cite
Notice of Availability	10/01/10	75 FR 60709
Notice of Availability Comment Period End	11/30/10	
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Frank Lockhart, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115
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RIN: 0648–BA01

243. ● 2011 SPECIFICATIONS FOR THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERY

Legal Authority: 16 USC 1801 et seq

Abstract: NMFS proposes specifications for the 2011 fishing year for Atlantic mackerel, squid, and butterfish (MSB). Regulations governing these fisheries require NMFS to publish proposed specifications for the upcoming fishing year and to provide an opportunity for public comment. The intent of this action is to fulfill this requirement and to promote the development and conservation of the MSB resources.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast

Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930
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RIN: 0648–BA03

244. ● FISHING CAPACITY REDUCTION PROGRAM FOR THE SOUTHEAST ALASKA PURSE SEINE SALMON FISHERY

Legal Authority: 16 USC 1801 et seq; 46 USC 53701 et seq; PL 108–447; PL 109–447; PL 110–161

Abstract: This rule would implement a Capacity Reduction Program for the Southeast Alaska Purse Seine Salmon Fishery which is a state controlled fishery. This program is voluntary and holders of valid limited entry permits issued by the Alaska Commercial Fisheries Entry Commission to operate in the Southeast Alaska Purse Seine Salmon Fishery are eligible to participate. Permit holders in the program will receive up to $23.5 million, in the aggregate, in exchange for relinquishing permits. NMFS would issue a 30-year loan to finance the buyback and the loan would be repaid by those harvesters remaining in the fishery. The intent of this rule is to permanently reduce the most harvesting capacity in the fishery at the least cost, which should result in increased harvesting productivity for post-reduction permit holders participating in the fishery and should improve flexibility in the conservation and management of the fishery. The rule would also establish a fee collection system to ensure repayment of the loan.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–BA13

245. POTENTIAL REVISIONS TO THE TURTLE EXCLUDER DEVICE REQUIREMENTS

Legal Authority: 16 USC 1533

Abstract: With this action, the National Marine Fisheries Service (NMFS) announces that it is considering technical changes to the requirements for turtle excluder devices (TEDs), and to solicit public comment. Specifically, NMFS would modify the size of the TED escape opening currently required in the summer flounder fishery; require the use of TEDs in the whelk, calico scallop, and Mid-Atlantic scallop trawl fisheries; require the use of TEDs in flynets; and move the current northern boundary of the Summer Flounder Fishery-Sea Turtle Protection Area off Cape Charles, Virginia, to a point farther north.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/07	72 FR 7382
ANPRM Comment Period End	03/19/07	
ANPRM Comment Period Extended	03/19/07	72 FR 12749
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AV04

246. MARINE MAMMAL PROTECTION ACT PERMIT REGULATION REVISIONS

Legal Authority: 16 USC 1374

Abstract: The National Marine Fisheries Service (NMFS) is considering changes to its implementing regulations (50 CFR 216) governing the issuance of permits for scientific research and enhancement activities under Section 104 of the Marine Mammal Protection Act and is soliciting public comment to better inform the process. NMFS intends to streamline and clarify general permitting requirements and requirements for scientific research and enhancement permits, simplify procedures for transferring marine mammal parts, possibly apply the General Authorization (GA) to research activities involving Level A harassment of non-endangered marine mammals, and implement a ''permit application cycle'' for application submission and processing of all marine mammal permits. NMFS intends to write regulations for marine mammal photography permits and is considering whether this activity should be covered by the GA.

Timetable:

Action	Date	FR Cite
ANPRM	09/13/07	72 FR 52339
ANPRM Comment Period Extended	10/15/07	72 FR 58279
ANPRM Comment Period End	11/13/07	72 FR 52339
ANPRM Comment Period End	12/13/07	72 FR 58279
NPRM	05/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AV82

247. TAKE AND IMPORT MARINE MAMMALS: TAKE OF MARINE MAMMALS INCIDENTAL TO ROUTINE OPERATIONS OF 13 POWER GENERATING STATIONS IN CENTRAL AND SOUTHERN CALIFORNIA

Legal Authority: 16 USC 1361 et seq

Abstract: The National Marine Fisheries Service (NMFS) proposes to govern the take of marine mammals by Level A harassment (injury) and mortality from 13 power generating stations located on the coast of central and southern California incidental to routine power plant operations for a period of five years, under the authority of section 101(a)(5)(A) of the Marine Mammal Protection Act. Under that authority NMFS also must prescribe mitigation, monitoring, and reporting requirements in connection with take authorizations.
Incidental takings of marine mammals, including California sea lions, harbor seals, and northern elephant seals can and do occur as a result of the operation of circulating water systems (CWS) by the electrical power

generation plants located on the coast of central and southern California described in the incidental take authorization applications. These CWS are an integral part of these power stations that provide continuous cooling water necessary for power generation and safety of the facility. The typical location of entrainment occurs as water is taken into the plant via submerged structures or canals. Intake velocities may be strong enough to pull live animals into the plant, particularly if they are actively seeking prey in the vicinity of intake structures. Confinement within intake plumbing could lead to confusion and panic, especially for young, immature animals. If the animal is unable to escape, it could (1) drown or become fatally injured in transit between intake and large sedimentation basins within the plants known as forebays; (2) survive the transit and succumb in the forebay due to exhaustion, illness, or disease; or (3) survive the transit and be rescued by plant personnel using cages specially designed for such an activity. It is also likely that previously dead animals may end up entrained as well.

Timetable:

Action	Date	FR Cite
NPRM	05/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AW59

248. REDUCE SEA TURTLE BYCATCH IN ATLANTIC TRAWL FISHERIES

Legal Authority: 16 USC 1531 et seq

Abstract: NMFS is initiating a rulemaking action to reduce injury and mortality to endangered and threatened sea turtles resulting from incidental take, or bycatch, in trawl fisheries in the Atlantic waters. NMFS will likely address the size of the turtle excluder device (TED) escape opening currently required in the summer flounder trawl fishery, the definition of a summer flounder trawler, and the use of TEDs in this fishery; the use of TEDs in the croaker and weakfish flynet, whelk, Atlantic sea scallop, and calico scallop trawl fisheries of the Atlantic Ocean; and new seasonal and temporal boundaries for TED requirements. In addition, this rule will address the definition of the Gulf Area applicable to the shrimp trawl fishery in the southeast Atlantic and Gulf of Mexico. The purpose of the rule is to aid in the protection and recovery of listed sea turtle populations by reducing mortality in trawl fisheries through the use of TEDs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY61

Department of Commerce (DOC) — Final Rule Stage

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

249. AMENDING REGULATIONS FOR THE PACIFIC HALIBUT, SABLEFISH, AND POLLOCK FISHERIES CONDUCTED UNDER THE WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM

Legal Authority: 16 USC 1801 et seq; 16 USC 773 et seq; 3631 et seq; PL 108–447

Abstract: NMFS proposes to amend regulations that govern fisheries managed under the Western Alaska Community Development Quota (CDQ) Program. These revisions are needed to comply with certain changes made to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) in 2006. Proposed changes include revising regulations associated with recordkeeping, vessel licensing, catch retention requirements, and fisheries observer requirements to ensure that they are no more restrictive than the regulations in effect for comparable non-CDQ fisheries managed under individual fishing quotas or cooperative allocations. In addition, NMFS proposes to remove CDQ Program regulations that now are inconsistent with the Magnuson-Stevens Act, including regulations associated with the CDQ allocation process, transfer of groundfish CDQ and halibut prohibited species quota, and the oversight of CDQ groups expenditures.

Timetable:

Action	Date	FR Cite
NPRM	07/13/10	75 FR 39892
NPRM Comment Period End	08/12/10	
Final Rule	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AV33

250. CERTIFICATION OF NATIONS WHOSE FISHING VESSELS ARE ENGAGED IN ILLEGAL, UNREPORTED, AND UNREGULATED FISHING OR BYCATCH OF PROTECTED LIVING MARINE RESOURCES

Regulatory Plan: This entry is Seq. No. 28 in part II of this issue of the **Federal Register**.

RIN: 0648–AV51

DOC—NOAA **Final Rule Stage**

251. MAGNUSON–STEVENS FISHERY CONSERVATION AND MANAGEMENT REAUTHORIZATION ACT ENVIRONMENTAL REVIEW PROCEDURE

Legal Authority: 16 USC 1801 et seq.

Abstract: Section 107 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) (P.L. 109-479) requires NOAA Fisheries to revise and update agency procedures for complying with the National Environmental Policy Act (NEPA) in context of fishery management actions. It further requires that NOAA Fisheries consult with the Council on Environmental Quality (CEQ) and the Regional Fishery Management Councils (Councils), and involve the public in the development of the revised procedures. The MSRA provides that the resulting procedures will be the sole environmental impact assessment procedure for fishery management actions, and that they must conform to the time lines for review and approval of fishery management plans and plan amendments. They must also integrate applicable environmental analytical procedures, including the time frames for public input, with the procedure for the preparation and dissemination of fishery management plans, plan amendments and other actions taken or approved pursuant to this Act in order to provide for timely, clear and concise analysis that is useful to decision makers and the public, reduce extraneous paperwork, and effectively involve the public.
This rule would revise and update the NMFS procedures for complying with NEPA in the context of fishery management actions developed pursuant to MSRA.

Timetable:

Action	Date	FR Cite
NPRM	05/14/08	73 FR 27998
NPRM Comment Period End	06/13/08	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AV53

252. REVISE REGULATIONS GOVERNING THE NORTH PACIFIC GROUNDFISH OBSERVER PROGRAM

Legal Authority: 118 Stat 110; 16 USC 773 et seq; 16 USC 1801 et seq; 16 USC 3631 et seq; PL 108–199

Abstract: This rulemaking revises Federal regulations relevant to numerous administrative and procedural requirements applicable to observer providers, observers, and industry participating in the North Pacific Groundfish Observer Program. Specifically, this action would: modify the current permit issuance process so that observer and observer provider permit issuance is a discretionary National Marine Fisheries Service (NMFS) decision; amend current Federal regulations addressing observer behavior involving drugs, alcohol, and physical sexual conduct to remove NMFS oversight of observer behavior that does not affect job performance; require that observer providers submit policies related to these activities and continue to notify NMFS upon learning of an incident; revise Federal regulations so that observer providers are allowed to provide observers or technical staff for purposes of exempted fishing permits, scientific research permits, or other scientific research activities; revise the definition of fishing day in Federal regulations; require observer providers to annually submit detailed economic information to NMFS; specify a date by which observers who have collected data in the previous fishing year would be required to be available for debriefing; and implement housekeeping issues related to errors or clarifications in existing regulations at 50 CFR 679.50.

Timetable:

Action	Date	FR Cite
NPRM	09/30/09	74 FR 50155
NPRM Comment Period End	10/31/09	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AW24

253. REVOKE INACTIVE QUOTA SHARE AND ANNUAL INDIVIDUAL FISHING QUOTA FROM A HOLDER OF QUOTA SHARE UNDER THE PACIFIC HALIBUT AND SABLEFISH FIXED GEAR INDIVIDUAL FISHING QUOTA PROGRAM

Legal Authority: 16 USC 1801 et seq; 16 USC 773

Abstract: This action would amend existing commercial fishing regulations for the fixed-gear Pacific Halibut and sablefish individual fishing quota program at 50 CFR 679. The amendment would revoke inactive quota share unless the quota share permit holder affirmatively notices NMFS in writing within 60 days of the agency's preliminary determination of inactivity that they choose to (a) retain the inactive IFQ quota share, (b) activate the quota share through transfer or by fishing, or (c) appeal the preliminary determination. Quota share that is not activated through this process and is revoked would be proportionally distributed to the quota share pool. This regulatory revision is based on the recommendations of the North Pacific Fishery Management Council in June 2006 and again in February 2009. Amending the regulations would improve the efficiency of the Pacific Halibut and Sablefish IFQ program and augment operational flexibility of participating fisherman.

Timetable:

Action	Date	FR Cite
NPRM	08/23/10	75 FR 51741
NPRM Comment Period End	09/22/10	
Final Rule	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AX91

254. REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH FISHERY OF PUERTO RICO MODIFYING THE BAJO DE SICO SEASONAL CLOSURE

Legal Authority: 16 USC 1801

Abstract: The rule would modify the seasonal closure of Bajo de Sico, an area off the west coast of Puerto Rico that has been identified as critically important habitat for commercially exploited snappers and groupers. Current regulations prohibit all fishing activities, including Highly Migratory Species (HMS) from December 1 through the end of February each year as well as a year-round prohibition of bottom tending gear (i.e., traps, pots, gillnets, trammel nets, and bottom longlines). The rule would prohibit fishing for and possession of council managed species, including reef fish and spiny lobster, from October 1 through March 31. Queen Conch and coral reef resources are already prohibited year-round and will not be affected by this rule. Restrictions on bottom-tending gear will also not be affected by this rule. A year-round prohibition of anchoring within Bajo de Sico will also be implemented through this rule to provide further protection of established essential fish habitat.

Timetable:

Action	Date	FR Cite
NPRM	07/28/10	75 FR 44209
NPRM Comment Period End	08/27/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY05

255. AMENDMENT 17A TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER GROUPER FISHERY OF THE SOUTH ATLANTIC REGION

Legal Authority: 16 USC 1801

Abstract: The most recent red snapper stock assessment, completed February 2008, determined the species was undergoing overfishing and was overfished. Biomass shows a sharp decline during the 1950's and 1960's, continued decline during the 1970's, and stable but low levels since 1980. The South Atlantic Fishery Management Council (Council) is required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to implement rebuilding plans for overfished species. Therefore, Amendment 17A is being developed to establish a rebuilding plan and updated management reference points for red snapper in the South Atlantic. Additionally, revisions to the Magnuson-Stevens Act in 2006 require that by 2010, Fishery Management Plans (FMPs) for fisheries determined by the Secretary to be subject to overfishing establish a mechanism for specifying Annual Catch Limits (ACLs) at a level that prevents overfishing and does not exceed the recommendations of the respective Councils Scientific and Statistical Committee or other established peer review processes. These FMPs are also required to establish within this timeframe measures to ensure accountability. To comply with this Magnuson-Stevens Act requirement, Amendment 17A would establish an ACL and accountability measures for red snapper, and implement management measures to ensure harvest does not exceed the ACL.

Timetable:

Action	Date	FR Cite
Notice of Availability	07/29/10	75 FR 44753
NPRM	08/13/10	75 FR 49447
Notice of Availability Comment Period End	09/27/10	
NPRM Comment Period End	09/27/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY10

256. AMENDMENT 17B TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER GROUPER FISHERY OF THE SOUTH ATLANTIC REGION

Legal Authority: 16 USC 1801

Abstract: Revisions to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) in 2006 require that by 2010, Fishery Management Plans (FMPs) for fisheries determined by the Secretary to be subject to overfishing establish a mechanism for specifying Annual Catch Limits (ACLs) at a level that prevents overfishing and does not exceed the recommendations of the respective Council's Scientific and Statistical Committee or other established peer review processes. These FMPs are also required to establish within this timeframe measures to ensure accountability. To comply with this Magnuson-Stevens Act requirement Amendment 17B would: (1) Establish ACLs and accountability measures for snowy grouper, speckled hind, Warsaw grouper, black grouper, red grouper, golden tilefish, black sea bass, gag, and vermilion snapper; (2) implement management measures to ensure harvest of these snapper-grouper species does not exceed the ACLs; (3) specify allocations for golden tilefish; and (4) modify the current snapper-grouper framework procedure to include ACLs, AMs, and annual catch targets.

Timetable:

Action	Date	FR Cite
Notice of Availability	09/22/10	75 FR 57734
NPRM	10/12/10	75 FR 62488
Notice of Availability Comment Period End	11/22/10	
NPRM Comment Period End	11/26/10	
Final Rule	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY11

257. AMENDMENT 94 FOR BERING SEA MODIFIED NONPELAGIC TRAWL GEAR REQUIREMENTS, ST. MATTHEW ISLAND HABITAT CONSERVATION AREA REVISION, AND MODIFIED GEAR TRAWL ZONE

Legal Authority: 16 USC 1801 et seq; 16 USC 3631 et seq; 16 USC 773 et seq; PL 108–447

Abstract: This regulation implements Amendment 94 to the Fishery

Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The regulation would require gear modification for nonpelagic trawl vessels targeting flatfish in the Bering Sea subarea. The modified gear would have elevating devices on trawl sweeps to raise the sweeps off the seafloor and reduce the potential impact on bottom habitat. This action also would change the Southern boundary of the Northern Bering Sea Research Area to create the Modified Gear Trawl Zone where anyone fishing with nonpelagic trawl gear must use modified trawl sweeps. The regulation also would change the eastern boundary of the Saint Matthew Island Habitat Conservation Area to further protect blue king crab habitat.

Timetable:

Action	Date	FR Cite
Notice of Availability	06/29/10	75 FR 37371
NPRM	07/15/10	75 FR 41123
Notice of Availability Comment Period End	08/30/10	
NPRM Comment Period End	08/30/10	
Final Rule	10/06/10	75 FR 61642
Final Action Effective	01/20/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY34

258. REGULATORY AMENDMENT TO REVISE CHARTER HALIBUT LOGBOOK SUBMISSION REQUIREMENTS AT 50 CFR PART 300

Legal Authority: 16 USC 2431 et seq; 31 USC 9701 et seq

Abstract: Clarifies and revises the charter halibut logbook submission requirements at 50 CFR part 300 to better match the submission schedule and reporting format of the Alaska Department of Fish and Game saltwater charter logbook.

Timetable:

Action	Date	FR Cite
NPRM	04/27/10	75 FR 22070
NPRM Comment Period End	05/12/10	
Final Rule	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY38

259. ADDENDUM IV TO THE WEAKFISH INTERSTATE MANAGEMENT PLAN—BYCATCH TRIP LIMIT

Legal Authority: 16 USC 5101

Abstract: NMFS proposes regulations that would modify management restrictions in the Federal weakfish fishery in a manner consistent with the Commission's Weakfish Management Board's (Board) approved Addendum IV to Amendment 4 to the ISFMP for Weakfish. In short, the proposed Federal regulatory change would decrease the incidental catch allowance for weakfish in the EEZ in non-directed fisheries using smaller mesh sizes, from 150 pounds to no more than 100 pounds per day or trip, whichever is longer in duration. In addition it would impose a one fish possession limit on recreational fishers.

Timetable:

Action	Date	FR Cite
NPRM	05/12/10	75 FR 26703
NPRM Comment Period End	06/11/10	
NPRM Comment Period Re–opened	06/16/10	75 FR 34092
NPRM Comment Period End	06/30/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY41

260. ● VESSEL CAPACITY LIMITS IN THE PURSE SEINE FISHERY IN THE EASTERN PACIFIC OCEAN

Legal Authority: 16 USC 971 et seq; 16 USC 951 to 961

Abstract: NMFS is proposing regulations under authority of the Tuna Conventions Act of 1950 that would revise the vessel capacity limit in the purse seine fishery operating in the eastern Pacific Ocean (EPO) so it is consistent with the amount authorized by the Inter-American Tropical Tuna Commission (IATTC) under IATTC Resolution C-02-03. For the United States, a vessel capacity limit of 31,775 cubic meters, or 27,147 metric tons (mt) would be established per Resolution C-02-03. Currently, the U.S. fleet capacity limit is 8,969 mt, or 10,498 cubic meters. This revision would ensure that the United States is satisfying its obligations as a member of the IATTC and not exceeding its allotted capacity in the fishery, and the U.S. industry is not being unreasonably burdened if U.S. participation in the fishery in the EPO increased in the future. While an increase in U.S. participation in this fishery would not be anticipated since currently only two purse seine vessels are on the IATTC Vessel Register and when excess U.S. capacity has been available in the past there has not been a surge to use this capacity by outside vessels, there is a potential for an increase in fishing effort and resultant fishing mortality to target (i.e., yellowfin, skipjack, and bigeye tunas) and non-target species in the purse seine fishery operating in the EPO. In addition, there is also the potential for insignificant, positive socioeconomic impacts if the proposed action led to an increase in catch and revenue for fishermen participating in the fishery.

Timetable:

Action	Date	FR Cite
NPRM	09/03/10	75 FR 54078
NPRM Comment Period End	10/04/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY75

261. ● EMERGENCY RULE TO RE–OPEN THE RECREATIONAL RED SNAPPER SEASON IN THE GULF OF MEXICO

Legal Authority: 16 USC 1801 et seq

Abstract: The Gulf of Mexico Fishery Management Council (Council) has requested that NOAA Fisheries Service publish an emergency rule that will provide authority to the Regional Administrator to re-open the recreational red snapper season after the September 30, 2010, end of the fishing season, if it is determined that landings during the June 1-July 23 open season did not meet the quota.

Timetable:

Action	Date	FR Cite
NPRM	08/16/10	75 FR 49883
NPRM Comment Period End	08/31/10	
Final Action—Emergency Rule	09/24/10	75 FR 58335
Final Action—Emergency Rule Extension	03/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–BA06

262. PROTECTIVE REGULATIONS FOR KILLER WHALES IN THE NORTHWEST REGION UNDER THE ENDANGERED SPECIES ACT AND MARINE MAMMAL PROTECTION ACT

Legal Authority: 16 USC 1361 et seq; 16 USC 1531 to 1543

Abstract: The National Marine Fisheries Service (NMFS) is considering whether to propose regulations to protect killer whales (Orcinus orca) in the Pacific Northwest. The Southern Resident killer whale distinct population segment (DPS) was listed as endangered under the Endangered Species Act (ESA) on November 18, 2005 (70 FR 69903). In the final rule announcing the listing, NMFS identified vessel effects, including direct interference and sound, as a potential contributing factor in the recent decline of this population. Both the Marine Mammal Protection Act (MMPA) and the ESA prohibit take, including harassment, of killer whales, but these statutes do not prohibit specified acts. NMFS is now considering whether to propose regulations that would prohibit certain acts, under our general authorities under the ESA and MMPA and their implementing regulations. The Proposed Recovery Plan for Southern Resident killer whales (71 FR 69101; November 29, 2006) includes as a management action the evaluation of current guidelines and the need for regulations and/or protected areas. The scope of this ANPR encompasses the activities of any person or conveyance that may result in the unauthorized taking of killer whales and/or that may cause detrimental individual-level and population-level impacts. NMFS requests comments on whether —and if so, what type of— conservation measures, regulations, and, if necessary, other measures would be appropriate to protect killer whales from the effects of these activities.

Timetable:

Action	Date	FR Cite
ANPRM	03/22/07	72 FR 13464
ANPRM Comment Period End	04/23/07	
NPRM	07/29/09	74 FR 37674
NPRM Comment Period Extended	10/19/09	74 FR 53454
NPRM Comment Period End	10/27/09	
NPRM Extended Comment Period End	01/15/10	
Final Rule	01/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AV15

263. TAKING AND IMPORTING MARINE MAMMALS; U.S. NAVAL SURFACE WARFARE CENTER PANAMA CITY DIVISION MISSION ACTIVITIES

Legal Authority: 16 USC 1361 et seq

Abstract: On April 3, 2008, the National Marine Fisheries Service (NMFS) received an application from the Navy requesting an authorization for the take of 15 species/stocks of cetacean incidental to the proposed mission activities in the Naval Surface Warfare Center Panama City Division (NSWC PCD) study area over the course of five years. These mission activities are classified as military readiness activities. The purpose of the proposed mission activities is to enhance NSWC PCD's capability and capacity to meet littoral and expeditionary warfare requirements by providing Research, Development, Test, and Evaluation (RDT&E) and in service engineering for expeditionary maneuver warfare, operations in extreme environments, mine warfare, maritime operations, and coastal operations. The Navy states that these training activities may cause various impacts to marine mammal species in the NSWC PCD study area. The Navy requests an authorization to take individuals of these cetacean species by Level B Harassment. Further, the Navy requests an authorization to take 1 individual each of bottlenose, Atlantic spotted, and pantropical spotted dolphins per year by injury, as a result of the proposed mission activities.
NMFS is issuing a proposed rule to govern the take of these marine mammals by Level B harassment (behavior) and Level A harassment

DOC—NOAA **Final Rule Stage**

(injury) incidental to the aforementioned mission activities in the Naval NSWC PCD study area for a period of five years, under the authority of section 101(a)(5)(A) of the Marine Mammal Protection Act. Under that authority NMFS also must prescribe mitigation, monitoring, and reporting requirements in connection with take authorizations.

Timetable:

Action	Date	FR Cite
NPRM	04/30/09	74 FR 20156
NPRM Comment Period End	06/01/09	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AW80

264. RULE TO REVISE THE CRITICAL HABITAT DESIGNATION FOR THE ENDANGERED LEATHERBACK SEA TURTLE

Legal Authority: 16 USC 1531 et seq

Abstract: The National Marine Fisheries Service, announces a rule to revise leatherback turtle (Dermochelys coriacea) critical habitat under the Endangered Species Act of 1973, as amended. The leatherback is currently listed as endangered throughout its range, and critical habitat consists of Sandy Point Beach and adjacent waters, St. Croix, U.S. Virgin Islands. This rule would revise critical habitat to include waters along the U.S. West Coast.

Timetable:

Action	Date	FR Cite
NPRM	01/05/10	75 FR 319
Notice of Public Hearings	02/01/10	75 FR 5015
NPRM Comment Period Extension	02/19/10	75 FR 7434
NPRM Comment Period End	03/08/10	
NPRM Comment Period Extension End	04/19/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Sara McNulty, Ecologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East–West Highway, Silver Spring, MD 20910
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RIN: 0648–AX06

265. CRITICAL HABITAT DESIGNATION FOR COOK INLET BELUGA WHALE UNDER THE ENDANGERED SPECIES ACT

Regulatory Plan: This entry is Seq. No. 29 in part II of this issue of the **Federal Register**.

RIN: 0648–AX50

266. TAKING OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES; TAKING MARINE MAMMALS INCIDENTAL TO TRAINING OPERATIONS CONDUCTED WITHIN THE GULF OF MEXICO RANGE COMPLEX

Legal Authority: 16 USC 1361 et seq

Abstract: NMFS has received requests from the U.S. Navy (Navy) for authorizations for the take of marine mammals incidental to training and operational activities conducted by the Navy's Atlantic Fleet within Gulf of Mexico (GOMEX) Range Complex for the period beginning December 3, 2009, and ending December 2, 2014. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is proposing regulations to govern that take and requesting information, suggestions, and comments on these proposed regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/14/09	74 FR 33960
NPRM Comment Period End	08/13/09	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AX86

Department of Commerce (DOC) — Long-Term Actions
National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

267. FISHERY MANAGEMENT PLAN FOR REGULATING OFFSHORE MARINE AQUACULTURE IN THE GULF OF MEXICO

Legal Authority: 16 USC 1801 et seq.

Abstract: The purpose of this fishery management plan (FMP) is to develop a regional permitting process for regulating and promoting environmentally sound and economically sustainable aquaculture in the Gulf of Mexico (Gulf) exclusive economic zone. This FMP consists of ten actions, each with an associated range of management alternatives, which would facilitate the permitting of an estimated 5 to 20 offshore aquaculture operations in the Gulf over the next 10 years, with an estimated annual production of up to 64 million pounds. By establishing a regional permitting process for aquaculture, the Gulf of Mexico Fishery Management Council will be positioned to achieve their primary goal of increasing maximum sustainable yield and optimum yield of federal fisheries in the Gulf by supplementing harvest of wild caught species with cultured product.

Timetable:

Action	Date	FR Cite
Notice of Availability	06/04/09	74 FR 26829

Action	Date	FR Cite
NOA Comment Period End	08/03/09	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AS65

268. PROVIDE REGULATIONS FOR PERMITS FOR CAPTURE, TRANSPORT, IMPORT, AND EXPORT OF PROTECTED SPECIES FOR PUBLIC DISPLAY, AND FOR MAINTAINING A CAPTIVE MARINE MAMMAL INVENTORY

Legal Authority: 16 USC 1372(c)

Abstract: This rule will revise and simplify criteria and procedures specific to permits for taking, transporting, importing, and exporting protected species for public display and provide convenient formats for reporting marine mammal captive holdings and transports as required by amendments made in 1994 to the Marine Mammal Protection Act.

Timetable:

Action	Date	FR Cite
NPRM	07/03/01	66 FR 35209
NPRM Comment Period Extended	08/22/01	66 FR 44109
NPRM Comment Period End	09/04/01	
NPRM Comment Period Extended To	11/02/01	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AH26

Department of Commerce (DOC) Completed Actions
National Oceanic and Atmospheric Administration (NOAA)

269. SOUTH ATLANTIC FISHERY ECOSYSTEM PLAN COMPREHENSIVE AMENDMENT

Legal Authority: 16 USC 1801 et seq

Abstract: The purpose of this action is to develop an ecosystem-based approach to resource management. The South Atlantic Council plans to develop a Fishery Ecosystem Plan (FEP) Comprehensive Amendment, which would modify all its Fishery Management Plans (FMPs). The initial amendment would include the following: (1) various actions to comply with new essential fish habitat requirements; (2) establishment of deep water coral Habitat Areas of Particular Concern, with possible gear limitations, such as the establishment of allowable trawl areas; and (3) other actions necessary to implement ecosystem-based fishery management.

Timetable:

Action	Date	FR Cite
Withdrawn	08/05/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AV31

270. AMENDMENT 17 TO THE SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL SNAPPER GROUPER FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801

Abstract: Amendment 17 is intended to: establish management reference points (MSY, OY) for red snapper; establish a rebuilding plan (rebuilding timeframe and rebuilding strategy) for red snapper; specify Annual Catch Limits (ACL), Annual Catch Targets (ACT), and Accountability Measures (AM) for 10 species undergoing overfishing; and modify management measures to ensure future catch is equal to or below the ACL.

Timetable:

Action	Date	FR Cite
Withdrawn	08/17/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AW11

271. AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE QUEEN CONCH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Legal Authority: 16 USC 1801

Abstract: St. Croix queen conch landings by commercial fishermen alone have exceeded sustainable harvest levels since the 2000-2001 fishing season. In 2005-2006 the commercial harvest was over four times sustainable levels. Additionally, there is an unknown but significant recreational harvest. Overfishing of queen conch has led to resource collapse in other regions and in some cases, long-term resource loss. According to the NMFS Report on the Status of the U.S. Fisheries for 2006, queen conch is overfished and undergoing overfishing. Under current fishing practices, reductions in mortality are not expected to be sufficient in the queen conch fishery. Without a reduction in mortality, queen conch are not expected to achieve the rebuilding goals established in the Sustainable Fisheries Amendment of 2005. Therefore, a change in fishing practices is needed to help achieve the necessary reductions in queen conch fishing mortality.

Timetable:

Action	Date	FR Cite
Notice of Intent	10/11/07	72 FR 58057

Regulatory Flexibility Analysis Required: Yes

DOC—NOAA **Completed Actions**

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RIN: 0648–AW15

272. AMENDMENT 3 TO THE NORTHEAST SKATE COMPLEX FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801

Abstract: NMFS proposes regulations to implement measures in Amendment 3 to the Northeast Skate Complex Fishery Management Plan (Skate FMP). Amendment 3 was developed by the New England Fishery Management Council (Council) to rebuild overfished skate stocks (thorny and smooth skates) and implement annual catch limits (ACLs) and accountability measures (AMs) consistent with the requirements of the reauthorized Magnuson-Stevens Fishery Conservation and Management Act. Amendment 3 would establish an ACL and annual catch target (ACT) for the skate complex, total allowable landings (TAL) for the skate wing and bait fisheries, seasonal quotas for the bait fishery, reduced possession limits, in-season possession limit triggers, and other measures to improve management of the skate fisheries. This rule also includes skate fishery specifications for fishing years (FY) 2010 through 2011.

Timetable:

Action	Date	FR Cite
NPRM	01/21/10	75 FR 3434
NPRM Comment Period End	02/22/10	
Final Action	06/16/10	75 FR 34049
Final Action Effective	06/16/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AW30

273. ATLANTIC HIGHLY MIGRATORY SPECIES; ATLANTIC SHARK MANAGEMENT MEASURES

Legal Authority: 16 USC 1801 et seq

Abstract: This rule evaluates the management measures for small coastal sharks (SCS), based on the results of the 2007 SCS stock assessment. This rulemaking could consider, among other things, commercial quotas and trip limits, recreational minimum size and bag limits, time/area closures, and the public display quota. In addition, this rule implements a rebuilding plan for blacknose sharks. To the extent that blacknose sharks are caught in fisheries that are not targeted highly migratory species fisheries, the National Marine Fisheries Service (NMFS) will work with the appropriate Regional Fishery Management Council, Interstate Commission, and States to implement regulations through their processes to rebuild blacknose sharks. This action is necessary in light of recent stock assessments, which have determined that blacknose sharks are overfished with overfishing occurring. As needed, this rule may include others items to clarify existing regulations.

Timetable:

Action	Date	FR Cite
Notice of Intent	05/07/08	73 FR 25665
Notice of Scoping Meetings and Extension of Comment Period	07/02/08	73 FR 37932
Notice of Intent Comment Period End	08/05/08	
Notice of Intent Comment Period Extended—Second Extension	10/29/08	73 FR 64307
Notice of Intent Comment Period Extension End	10/31/08	
Second Extension Comment Period End	11/14/08	
NPRM	07/24/09	74 FR 36892
NPRM Comment Period Extended	08/10/09	74 FR 39914
NPRM Comment Period End	09/22/09	
NPRM Comment Period Extended End	09/25/09	
Final Action	06/01/10	75 FR 30483

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AW65

274. AMENDMENT 31 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO

Legal Authority: 16 USC 1801

Abstract: In September 2008, NOAA's National Marine Fisheries Service (NMFS) released a report based on observer data that indicated the total number of loggerhead sea turtle takes by the eastern Gulf of Mexico reef fish bottom longline fishery was much greater than that authorized in the most recent biological opinion. In response, the Gulf of Mexico Fishery Management Council (Council) requested NMFS take emergency action to reduce the number of takes by the fishery during the short term while the Council develops long-term measures in Amendment 31. Measures being considered include: (1) modifying baits; (2) area, season, and depth restrictions; (3) reducing effort through a longline endorsement program; and (4) using observers or electronic monitoring to close the fishery once a sea turtle take threshold has been met.

Timetable:

Action	Date	FR Cite
NPRM	01/15/10	75 FR 2469
NPRM Comment Period End	03/01/10	
Final Action	04/26/10	75 FR 21512
Final Rule — Correction Notice	05/24/10	75 FR 28760

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AX67

275. SNAPPER–GROUPER FISHERY MANAGEMENT PLAN OF THE SOUTH ATLANTIC

Legal Authority: 16 USC 1801

Abstract: This action would implement an interim measure to prohibit the harvest of red snapper for 180 days to address overfishing of red snapper, through interim measures.

Timetable:

Action	Date	FR Cite
NPRM	07/06/09	74 FR 31906
NPRM Comment Period End	08/05/09	
Final Action	12/04/09	74 FR 63673
Final Action Effective	01/04/10	
Extension of Final Action	05/18/10	75 FR 27658

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AX75

276. SALMON BYCATCH REDUCTION MANAGEMENT MEASURES FOR THE FISHERY MANAGEMENT PLAN 91 IN THE BERING SEA ALEUTIAN ISLANDS

Legal Authority: 16 USC 1801 et seq; 16 USC 3631 et seq; 16 USC 773 et seq; PL 108–447

Abstract: This fishery management plan amendment and rulemaking will implement the North Pacific Fishery Management Council's recommendations for management measures to minimize to the extent practicable Chinook salmon bycatch in the Bering Sea pollock fishery. These management measures provide two options for the pollock sectors (e.g., inshore catcher vessels, offshore catcher-processors, catcher vessels delivering to motherships, or CDQ entities): fish under a lower Chinook salmon cap or participate in an incentive program and fish under a higher cap. Under the first option, the fleet as a whole may choose to fish under a transferable cap of 47,591 Chinook salmon, which would be allocated by season and sector. Once each sector reaches its specific cap, it would be prohibited from continuing to fish for pollock for the remainder of the season. Alternatively, vessels or CDQ entities may choose to participate in private contracts called incentive plan agreements (IPA) which would describe how participants would maintain low bycatch even when their bycatch levels are well below the hard cap approved. Those vessels or CDQ entities participating in an IPA would be allocated a transferable share of up to 60,000 Chinook salmon. This cap would be reduced for any vessels or CDQ entities not participating in an IPA and those vessels and CDQ entities would fish under a lower, non-transferable cap. In addition to the annual cap levels, if any sector operating under an IPA exceeds its proportion of 47,591 Chinook salmon three times in any seven-year period, the sector's maximum bycatch limit will be permanently reduced to its proportional share of the 47,591 cap. If the FMP amendments and proposed rule are approved, fishing under the new Chinook salmon bycatch management measures would start in 2011.

Timetable:

Action	Date	FR Cite
Notice of Availability	02/18/10	75 FR 7228
NPRM	03/23/10	75 FR 14016
Notice of Availability Comment Period End	04/19/10	
NPRM Comment Period End	05/07/10	
Final Rule	08/30/10	75 FR 53025
Final Rule Effective	09/29/10	
Correction	09/24/10	75 FR 58337

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AX89

277. 2010 SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS RECREATIONAL MANAGEMENT MEASURES

Legal Authority: 16 USC 1801

Abstract: This action implements the 2010 recreational management measures (minimum fish size, fishing seasons, and possession limits) for the summer flounder, scup, and black sea bass fisheries.

Timetable:

Action	Date	FR Cite
NPRM	04/27/10	75 FR 22087
NPRM Comment Period End	05/27/10	
Final Rule	07/08/10	75 FR 39170
Final Action Effective	08/09/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY04

278. 2010 TO 2012 ATLANTIC HERRING FISHERY SPECIFICATIONS AND MANAGEMENT MEASURES

Legal Authority: 16 USC 1801

Abstract: NMFS takes this action to implement specifications for the 2010-2012 fishing years for Atlantic herring. Regulations governing this fishery require NMFS to publish proposed specifications for the upcoming fishing years and to provide an opportunity for public comment. The intent of this action is to fulfill this requirement and to promote the development and conservation of the Atlantic herring resource.

Timetable:

Action	Date	FR Cite
NPRM	04/20/10	75 FR 20550
NPRM Comment Period End	05/20/10	
Final Action	08/12/10	75 FR 48874

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY14

DOC—NOAA **Completed Actions**

279. REMOVE CERTAIN REPORTING REQUIREMENTS UNDER THE CRAB RATIONALIZATION PROGRAM

Legal Authority: 16 USC 1801

Abstract: This rule would remove requirements under the Crab Rationalization (CR) Program in 50 CFR part 680. The requirements are removed for an operator of a catcher/processor to weigh processed crab when it is removed from the vessel and to report that weight to NMFS on an offload report. Currently, NMFS requires crab to be weighed onboard the catcher/processor before they are processed, and this weight is reported to NMFS. In the three years since implementation of the CR Program, NMFS has determined that the additional requirements to weigh processed crab when they are removed from the vessel and report that weight to NMFS are no longer necessary. Advancements in at sea reporting (eLandings), and the reliability of the at-sea motion-compensated hopper scales provide adequate information for NMFS to monitor and enforce proper reporting of crab catch.

Timetable:

Action	Date	FR Cite
NPRM	08/10/10	75 FR 48298
NPRM Comment Period End	08/25/10	
Final Rule	09/16/10	75 FR 56485

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY28

280. FRAMEWORK ADJUSTMENT 44 AND SPECIFICATIONS FOR THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801

Abstract: Framework Adjustment 44 and Specifications will modify management measures for the Northeast (NE) Multispecies Fishery Management Plan (FMP) to make the FMP more precautionary, and implement Annual Catch Limit (ACL) specifications for the fishery for fishing years 2010, 2011, and 2012.

Timetable:

Action	Date	FR Cite
NPRM	02/01/10	75 FR 5016
NPRM Comment Period End	03/01/10	
Final Rule	04/09/10	75 FR 18356
Final Rule Effective	05/01/10	
Temporary Rule	05/26/10	75 FR 29459
Temporary Rule Effective	05/26/10	
Temporary Rule – Adjustments Effective	09/07/10	
Temporary Rule–Adjustments to Specifications	09/10/10	75 FR 55286

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY29

281. FRAMEWORK 21 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

Abstract: Framework Adjustment 21 to the Atlantic Sea Scallop Fishery Management Plan (Framework 21) will set specifications for the 2010 scallop fishing year, which begins March 1, 2010, including adjustments to the total allowable catch, days-at-sea (DAS) allocations, scallop access area rotation schedule, and access area trip allocations. This framework is for a single year because the Council is working on Amendment 15, which will establish a process for implementing annual catch limits that are required to be in place in 2011 for the scallop fishery. Framework 21 must also comply with the requirements of the March 14, 2008, (amended February 5, 2009), Biological Opinion completed for the Atlantic Sea Scallop fishery, which requires the amount of allocated scallop fishing effort by limited access DAS scallop vessels that can be used in the Mid-Atlantic to be limited during the time of year when sea turtle distribution overlaps with scallop fishing activity. In addition, Framework 21 considers minor adjustments to the limited access general category individual fishing quota program, scheduled to be implemented March 1, 2010, and the observer set-aside program.

Timetable:

Action	Date	FR Cite
NPRM	04/27/10	75 FR 22073
NPRM Comment Period End	05/12/10	
Final Rule	06/28/10	75 FR 36559
Final Action Effective	06/28/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY43

282. AMENDMENTS 95/96/87 FOR THE BSAI AND GOA GROUNDFISH FMPS FOR BSAI SKATES AND GROUNDFISH ANNUAL CATCH LIMITS AND ACCOUNTABILITY MEASURES

Legal Authority: 16 USC 773 et seq; PL 108–447; PL 106–31; PL 106–554; PL 109–479; PL 105–277; 16 USC 1801; 16 USC 1540

Abstract: Amendments 96/87 to the fishery management plans (FMPs) for groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska would revise the FMPs to conform with the national standard 1 guidelines for annual catch limits and accountability measures. Revisions to the FMPs also include housekeeping measures that provide further explanation in the FMPs of current practices for setting annual catch limits and accountability measures. These FMP amendments would remove species groups (sharks, sculpins, octopus in the BSAI and sharks, sculpins, octopus, and squid in the Gulf of Alaska) from the other species complex and manage these groups separately in the target species category. The regulatory amendment would revise the regulations to be consistent with the changes made to the FMPs regarding harvest

specifications for groups removed from the other species category.

Amendment 95 to the FMP for Groundfish of the BSAI would move skates from the other species category into the target species category.

Timetable:

Action	Date	FR Cite
NOA	05/03/10	
Notice of Availability	07/02/10	75 FR 38454
NOA Comment Period End	07/06/10	
Proprosed Rule	07/16/10	75 FR 41424
Proposed Rule Comment Period End	08/30/10	
Notice of Availability Comment Period End	08/31/10	
Final Rule	10/06/10	75 FR 61639
Final Rule Effective	11/05/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY48

283. 2010 SPECIFICATIONS AND MANAGEMENT MEASURES FOR THE SPINY DOGFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq

Abstract: The Mid-Atlantic Fishery Management Council (MAFMC) and the New England Fishery Management Council (NEFMC) jointly manage the spiny dogfish fishery on the Atlantic coast through the Spiny Dogfish Fishery Management Plan (FMP), with the MAFMC having the lead. The FMP requires the Councils to recommend specifications for the spiny dogfish fishery consistent with the rebuilding program in the FMP. This fishery is managed through an annual quota and possession limits. The quota is divided semi-annually, with quota period 1 (May 1 through October 31) being allocated 57.9 percent of the quota, and quota period 2 (November 1 through April 30) being allocated 42.1 percent. For the 2010 fishing year, the MAFMC and NEFMC have adopted separate recommendations (ranging from a status quo of 12 million pounds to 29 million pounds) to provide a sufficient range of alternatives for the purposes of allowing NOAA's National Marine Fisheries Service to implement measures that are responsive to the best available data at the time of final rulemaking (the next assessment is scheduled to occur late January 2010, with preliminary results likely available at the end of February 2010). Both Councils adopted the status quo possession limit of 3,000 lb per trip.

Timetable:

Action	Date	FR Cite
NPRM	04/02/10	75 FR 16716
NPRM Comment Period End	05/02/10	
Final Action	06/24/10	75 FR 36012

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY50

284. FISHING YEAR 2010 ATLANTIC DEEP–SEA RED CRAB SPECIFICATIONS

Legal Authority: 16 USC 1801 et seq

Abstract: NMFS takes this action to establish the target total allowable catch and days-at-sea allocation for FY 2010 for the red crab fishery.

Timetable:

Action	Date	FR Cite
NPRM	02/19/10	75 FR 7435
NPRM Comment Period End	03/22/10	
Final Action	05/14/10	75 FR 27219
Final Action Effective	06/14/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY51

285. REGULATORY AMENDMENT TO THE GULF OF MEXICO REEF FISH FISHERY MANAGEMENT PLAN TO SET 2010 MANAGEMENT MEASURES FOR RED SNAPPER

Legal Authority: 16 USC 1801 et seq

Abstract: The 2009 update stock assessment of the Gulf of Mexico red snapper stock indicated that although the stock is still overfished, the stock is rebuilding and overfishing was projected to end in 2009. Based on their review of the assessment update, the Gulf Council's Scientific and Statistical Committee recommended total allowable catch (TAC) could be increased. The purpose of this regulatory amendment is to adjust TAC and the resulting recreational and commercial quotas consistent with the goals and objectives of the Council's red snapper rebuilding plan and achieve the mandates of the Magnuson-Stevens Fishery Conservation and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	03/30/10	75 FR 15665
NPRM Comment Period End	04/14/10	
Final Action	05/03/10	75 FR 23186
Final Action Effective	06/02/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0648–AY57

286. FISHERIES OFF WEST COAST STATES; PACIFIC COAST GROUNDFISH FISHERY; INTERIM 2010 TRIBAL WHITING REGULATIONS

Legal Authority: 16 USC 1801 et seq

Abstract: NMFS takes this action to establish an interim 2010 tribal whiting allocation, reporting and closure regulations, and refine existing regulations on tribal whiting reapportionment. This action also sets the 2010 Pacific whiting acceptable biological catch and optimum yield specifications for 2010 based on the most recent Pacific whiting stock assessment from March 2010.

Timetable:

Action	Date	FR Cite
NPRM	03/12/10	75 FR 11829
NPRM Comment Period End	04/02/10	
Interim Final Rule for 2010 Tribal Whiting	05/04/10	75 FR 23620
Interim Final Rule Effective	05/19/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Frank Lockhart, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115
Phone: 206 526–6142
Fax: 206 526–6736
Email: frank.lockhart@noaa.gov

RIN: 0648–AY59

287. FISHERIES OFF WEST COAST STATES; WEST COAST SALMON FISHERIES; 2010 MANAGEMENT MEASURES

Legal Authority: 16 USC 1854

Abstract: This rule implements the 2010 ocean salmon management measures.

Timetable:

Action	Date	FR Cite
Final Action	05/05/10	75 FR 24482
Final Action Effective	05/20/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Frank Lockhart, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115
Phone: 206 526–6142
Fax: 206 526–6736
Email: frank.lockhart@noaa.gov

RIN: 0648–AY60

288. ● 2010 ATLANTIC BLUEFIN TUNA QUOTA SPECIFICATIONS

Legal Authority: 16 USC 1801

Abstract: This action would establish Atlantic bluefin tuna (BFT) quota specifications by adjusting the U.S. annual BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas in 2008, and allocating that quota among the domestic fishing categories for the 2010 fishing year (January 1-December 31, 2010). This action would be consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Tunas Convention Act. The annual specification process is set forth in current regulations implemented under the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan. This action is not expected to be controversial.

Timetable:

Action	Date	FR Cite
NPRM	12/02/09	74 FR 63095
NPRM Comment Period End	01/04/10	
Final Action	06/02/10	75 FR 30732
Final Rule Correction	06/15/10	75 FR 33731
Final Action Effective	07/02/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Alan Risenhoover, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Room 13362, 1315 East–West Highway, Silver Spring, MD 20910
Phone: 301 713–2334
Fax: 301 713–0596
Email: alan.risenhoover@noaa.gov

RIN: 0648–AY77

289. ● PACIFIC COAST GROUNDFISH FISHERY; BIENNIAL SPECIFICATIONS AND MANAGEMENT MEASURES; INSEASON ADJUSTMENTS

Legal Authority: 16 USC 1801 et seq

Abstract: On March 6, 2009, NMFS published a final rule to implement the 2009-2010 West Coast groundfish harvest specifications and management measures (74 FR 9874). This action takes routine and frequent management action to modify harvest specifications and management measures to meet the mandates outlined by the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Timetable:

Action	Date	FR Cite
Final Rule — Inseason Effective	05/01/10	
Final Rule — Inseason	05/04/10	75 FR 23615

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Frank Lockhart, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115
Phone: 206 526–6142
Fax: 206 526–6736
Email: frank.lockhart@noaa.gov

RIN: 0648–AY82

290. ● INSEASON ADJUSTMENT TO THE FY 2010 ATLANTIC DEEP SEA RED CRAB SPECIFICATIONS

Legal Authority: 16 USC 1801 et seq

Abstract: This action is an inseason Adjustment to modify the red crab specifications to raise the target TAC to the revised recommended Acceptable Biological Catch (ABC) by the New England Fishery Management Council's Scientific and Statistical Committee. In May 2010, NMFS published the final rule for the FY 2010 red crab specifications implementing the Council's original recommended specifications (target TAC equal to 3.56 million lb; 582 DAS). In March 2010, the Council's Scientific and Statistical Committee met to review their previous recommendation for red crab. NMFS does not have the regulatory authority to implement specifications higher than the Councils recommendation. The regulations do, however, allow for an in-season adjustment to the specifications, after consultation with the Council. The Council met on April 28, 2010, and has recommended that NMFS adjust the FY 2010 specifications commensurate with the SSCs revised recommendation. The adjusted specifications would be 3.91 million lb and 657 DAS.

Timetable:

Action	Date	FR Cite
NPRM	06/22/10	75 FR 35435
NPRM Comment Period End	07/10/10	
Final Action	08/13/10	75 FR 49420
Final Action Effective	09/13/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930
Phone: 978 281–9200
Fax: 978 281–9117
Email: pat.kurkul@noaa.gov

RIN: 0648–AY88

DOC—NOAA

Completed Actions

291. RULEMAKING TO ESTABLISH TAKE PROHIBITIONS FOR THE THREATENED SOUTHERN DISTINCT POPULATION SEGMENT OF NORTH AMERICAN GREEN STURGEON

Legal Authority: 16 USC 1531 to 1543

Abstract: Under section 4(d) of the Federal Endangered Species Act (ESA), the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. This rule would apply the prohibitions under ESA section 9(a)(1)(A) through 9(a)(1)(G) for threatened Southern DPS green sturgeon, but would include certain exceptions and exemptions from the take prohibitions. Exceptions are included for certain scientific research, emergency fish rescue, law enforcement, and habitat restoration activities that meet the criteria specified in the protective regulations under Section 4(d) of the ESA for Southern DPS green sturgeon. Exemptions are included for state scientific research, fisheries activities, and tribal activities conducted under NMFS approved ESA 4(d) programs. Thus, take of Southern DPS fish may be authorized under ESA section 7 or 10, or under an exception or exemption to the take prohibitions if the activities are conducted in compliance with NMFS criteria or NMFS-approved plans.

Timetable:

Action	Date	FR Cite
NPRM	05/21/09	74 FR 23822
NPRM Comment Period End	07/20/09	
Final Action	04/02/10	75 FR 30714
Final Action Effective	07/02/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Marta Nammack, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East–West Highway, Silver Spring, MD 20910
Phone: 301 713–1401
Fax: 301 427–2523
Email: marta.nammack@noaa.gov

RIN: 0648–AV94

Department of Commerce (DOC)
Patent and Trademark Office (PTO)

Proposed Rule Stage

292. REVISION OF USPTO FEES FOR FISCAL YEAR 2011

Legal Authority: 35 USC 41, 119, 120, 132(b) and 376; PL 109–383; PL 110–116; PL 110–137; PL 110–149; PL 110–161; PL 110–5; PL 110–92

Abstract: The United States Patent and Trademark Office (USPTO) is taking this action to adjust certain patent and trademark fee amounts set in the aggregate to recover the estimated cost to the USPTO for processing activities and services and materials relating to patents and trademarks, respectively, including proportionate shares of the administrative costs of the USPTO.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	
NPRM Comment Period End	02/00/11	
Final Action	05/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Walter Schlueter, Budget Analyst—Fees and Forecasting, Department of Commerce, Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313
Phone: 571 272–6299
Fax: 571 273–6299
Email: walter.schlueter@uspto.gov

RIN: 0651–AC43

293. REVISION OF USPTO FEES FOR FISCAL YEAR 2012

Legal Authority: 35 USC 41, 119, 120, 132(b) and 376; PL 109–383; PL 110–116; PL 110–137; PL 110–149; PL 110–161; PL 110–5; PL 110–92

Abstract: The United States Patent and Trademark Office (USPTO) is taking this action to adjust certain patent and trademark fee amounts set in the aggregate to recover the estimated cost to the USPTO for processing activities and services and materials relating to patents and trademarks, respectively, including proportionate shares of the administrative costs of the USPTO.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	
NPRM Comment Period End	02/00/11	
Final Action	06/00/11	
Final Action Effective	07/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Walter Schlueter, Budget Analyst—Fees and Forecasting, Department of Commerce, Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313
Phone: 571 272–6299
Fax: 571 273–6299
Email: walter.schlueter@uspto.gov

RIN: 0651–AC44

Department of Commerce (DOC)
Patent and Trademark Office (PTO)

Final Rule Stage

294. INTERIM INCREASE ON PATENT FEES FOR FISCAL YEAR 2011

Legal Authority: PL 110–137; PL 110–149; PL 110–161; PL 110–5; PL 110–92; 35 USC 41, 119, 120,132(b) and 376; PL 109–383; PL 110–116

Abstract: The United States Patent and Trademark Office (USPTO) is proposing an interim increase on certain patent fees to fund the requirements for putting the USPTO on a sustainable path to fund agency operations, reduce patent inventory and pendency, and invest in information technology.

Timetable:

Action	Date	FR Cite
Final Action	12/00/10	

DOC—PTO **Final Rule Stage**

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Walter Schlueter, Budget Analyst—Fees and Forecasting, Department of Commerce, Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313
Phone: 571 272–6299
Fax: 571 273–6299
Email: walter.schlueter@uspto.gov

RIN: 0651–AC42

[FR Doc. 2010–30450 Filed 12–17–10; 8:45 am]

BILLING CODE 3510–12–S

Federal Register

Monday,
December 20, 2010

Part V

Department of Defense

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE (DOD)

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

48 CFR Ch. II

Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Defense (DoD).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Defense (DoD) is publishing this semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under Executive Order 12866 ''Regulatory Planning and Review.'' This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under the Executive Order and other regulatory guidance. It contains DoD issuances initiated by DoD components that may have economic and environmental impact on State, local, or tribal interests under the criteria of Executive Order 12866. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process. Members of the public may submit comments on individual proposed and interim final rulemakings at www.regulations.gov during the comment period that follows publication in the **Federal Register**.

This agenda updates the report published on April 26, 2010, and includes regulations expected to be issued and under review over the next 12 months. The next agenda and regulatory plan are scheduled to be published in the spring of 2011. In addition to this agenda, DoD components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

Starting with the fall 2007 edition, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at www.reginfo.gov, in a format that offers users the ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Department of Defense's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's agenda requirements. Additional information on these entries is in the Unified Agenda available online.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. Robert Cushing, telephone 703-696-5282, or write to Executive Services Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155, or e-mail: robert.cushing@whs.mil.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-697-2714.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Ms. Patricia Toppings, telephone 703-696-5284, or write to Executive Services Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301-1155, or e-mail: patricia.toppings@whs.mil.

For general information on Office of the Secretary agenda items, which are procurement-related, contact Ms. Ynette Shelkin, telephone 703-602-8384 or write to Defense Acquisition Regulations Directorate, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060, or e-mail: ynette.shelkin@osd.mil.

For general information on Department of the Army regulations, contact Ms. Brenda Bowen, telephone 703-428-6173, or write to the U.S. Army Records Management and Declassification Agency, ATTN: AAHS-RDR-C, Casey Building, Room 102, 7701 Telegraph Road, Alexandria, VA 22315-3860, or e-mail: brenda.bowen@conus.army.mil.

For general information on the U.S. Army Corps of Engineers regulations, contact Mr. Chip Smith, telephone 703-693-3644, or write to Office of the Deputy Assistant Secretary of the Army (Policy and Legislation), 108 Army Pentagon, Room 2E569, Washington, DC 20310-0108, or e-mail: chip.smith@hqda.army.mil.

For general information on Department of the Navy regulations, contact LCDR Daniel Werner, telephone 703-614-7408, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE., Suite 3000, Washington, DC 20374-5066, or e-mail: daniel.werner@navy.mil.

For general information on Department of the Air Force regulations, contact Bao-Anh Trinh, telephone 703-696-6515, or write to Department of the Air Force, SAF/XCPP, 1800 Air Force Pentagon, Washington, DC 20330-1800, or e-mail: bao-anh.trinh@pentagon.af.mil.

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions is composed of the regulatory status reports, including procurement-related regulatory status reports, from the Office of the Secretary of Defense (OSD) and the Departments of the Army, Navy, and Air Force. Included also is the regulatory status report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of Executive Order 12866 and involve water resource projects and regulation of activities in waters of the United States.

DoD issuances range from DoD directives (reflecting departmental policy) to implementing instructions

DOD

and regulations (largely internal and used to implement directives). The OSD agenda section contains the primary directives under which DoD components promulgate their implementing regulations.

In addition, this agenda, although published under the reporting requirements of Executive Order 12866, continues to be the DoD single-source reporting vehicle, which identifies issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, DoD components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;

b. Paperwork Reduction Act of 1995;

c. Unfunded Mandates Reform Act of 1995.

Those DoD issuances, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the regulatory status reports in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in the regulatory status reports. Although sensitive to the needs of the public, as well as regulatory reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

Dated: September 10, 2010.

Michael L. Rhodes,

Director, Administration and Management.

Defense Acquisition Regulations Council—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
295	Restriction on Ball and Roller Bearings (DFARS Case 2006-D029)	0750–AG57
296	Business Systems—Definition and Administration (DFARS Case 2009-D038)	0750–AG58
297	Warranty Tracking of Serialized Items (DFARS Case 2009-D018)	0750–AG74

Office of Assistant Secretary for Health Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
298	TRICARE; Reimbursement of Sole Community Hospitals **(Reg Plan Seq No. 32)**	0720–AB41

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Department of Defense (DOD)
Defense Acquisition Regulations Council (DARC)

Final Rule Stage

295. RESTRICTION ON BALL AND ROLLER BEARINGS (DFARS CASE 2006–D029)

Legal Authority: 41 USC 421

Abstract: Revises the domestic source restriction on acquisition of ball and roller bearings. The current DFARS restriction on ball and roller bearings requires that the bearings and the main bearing components be manufactured in the U.S. or Canada. This requirement was based on the restriction at 10 U.S.C. 2534(a)(5), which expired on October 1, 2005. The proposed revision interprets the annual defense appropriations act domestic source restriction on acquisition of ball and roller bearings in a manner similar to the domestic source restriction of the Buy American Act.

Timetable:

Action	Date	FR Cite
NPRM	05/07/10	75 FR 25167
NPRM Comment Period End	07/06/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Ynette Shelkin, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Washington, DC 20301
Phone: 703 602–8384
Email: ynette.shelkin@osd.mil

RIN: 0750–AG57

296. BUSINESS SYSTEMS—DEFINITION AND ADMINISTRATION (DFARS CASE 2009–D038)

Legal Authority: 41 USC 421

Abstract: Improves the effectiveness of DoD oversight of contractor business systems.

Timetable:

Action	Date	FR Cite
NPRM	01/15/10	75 FR 2457
NPRM Comment Period End	03/16/10	
Final Action	03/00/11	

DOD—DARC **Final Rule Stage**

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Ynette R. Shelkin, Editor, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060
Phone: 703 602–8384
Email: ynette.shelkin@osd.mil

RIN: 0750–AG58

297. ● WARRANTY TRACKING OF SERIALIZED ITEMS (DFARS CASE 2009–D018)

Legal Authority: 41 USC 401

Abstract: Amends the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a policy memorandum of the Undersecretary of Defense for Acquisition, Technology and Logistics dated February 6, 2007, that required definition of the requirements to track warranties for Item Unique Identification-required items in the Item Unique Identification registry. This proposed rule stresses that the enforcement of warranties is essential to the effectiveness and efficiency of DoD's material readiness.

Timetable:

Action	Date	FR Cite
NPRM	08/30/10	75 FR 52917
NPRM Comment Period End	10/29/10	
Final Action	05/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Ynette R. Shelkin, Editor, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060
Phone: 703 602–8384
Email: ynette.shelkin@osd.mil

RIN: 0750–AG74

Department of Defense (DOD) — Proposed Rule Stage

Office of Assistant Secretary for Health Affairs (DODOASHA)

298. ● TRICARE; REIMBURSEMENT OF SOLE COMMUNITY HOSPITALS

Regulatory Plan: This entry is Seq. No. 32 in part II of this issue of the **Federal Register**.

RIN: 0720–AB41

[FR Doc. 2010–30443 Filed 12–17–10; 8:45 am]

BILLING CODE 5001–06–S

Federal Register

Monday,
December 20, 2010

Part VI

Department of Education

Semiannual Regulatory Agenda

DEPARTMENT OF EDUCATION (ED)

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, Department of Education.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Secretary of Education publishes a semiannual agenda of Federal regulatory and deregulatory actions. The agenda is issued under the authority of section 4(b) of Executive Order 12866 ''Regulatory Planning and Review.'' The purpose of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the agency contact listed for the regulations. Questions or comments related to preparation of this agenda should be directed to Stanley M. Cohen, Division of Regulatory Services, Office of the General Counsel, Department of Education, Room 6E117, 400 Maryland Avenue, SW., Washington, DC 20202-2241; telephone: (202) 401-6305. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: Section 4(b) of Executive Order 12866, dated September 30, 1993, requires the Department of Education (ED) to publish, at a time and in a manner specified by the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, an agenda of all regulations under development or review. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires ED to publish, in October and April of each year, a regulatory flexibility agenda.

The regulatory flexibility agenda may be combined with any other agenda that satisfies the statutory requirements (5 U.S.C. 605(a)). In compliance with the Executive Order and the Regulatory Flexibility Act, the Secretary publishes this agenda.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation to any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract that includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(6)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at ED from whom a reader can obtain additional information regarding the planned action.

In accordance with ED's Principles for Regulating listed in its regulatory plan (74 FR 64194, published December 7, 2009); ED is committed to regulations that improve the quality and equality of services to its customers. ED will regulate only if absolutely necessary and then in the most flexible, most equitable, least burdensome way possible.

Interested members of the public are invited to comment on any of the items listed in this agenda that they believe are not consistent with the Principles for Regulating. Members of the public are also invited to comment on any regulations listed in this agenda that ED plans to review under section 610 of the Regulatory Flexibility Act (5 U.S.C. 610) to determine their economic impact on small entities. ED has determined that none of the regulations in this agenda require review under section 610.

This publication does not impose any binding obligation on ED with regard to any specific item in the agenda. ED may elect not to pursue any of the regulatory actions listed here, and regulatory action in addition to the items listed is not precluded. Dates of future regulatory actions are subject to revision in subsequent agendas.

Electronic Access to This Document

The entire Unified Agenda is published electronically and is available online at www.reginfo.gov.

Dated: September 13, 2010.

Charles P. Rose,

General Counsel.

Office of Postsecondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
299	Program Integrity: Gainful Employment—Measures **(Reg Plan Seq No. 34)**	1840–AD06

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Department of Education (ED) **Final Rule Stage**

Office of Postsecondary Education (OPE)

299. ● PROGRAM INTEGRITY: GAINFUL EMPLOYMENT—MEASURES

Regulatory Plan: This entry is Seq. No. 34 in part II of this issue of the **Federal Register**.

RIN: 1840–AD06

[FR Doc. 2010–30454 Filed 12–17–10; 8:45 am]

BILLING CODE 4000–01–S

Federal Register

Monday,
December 20, 2010

Part VII

Department of Energy

Semiannual Regulatory Agenda

DEPARTMENT OF ENERGY (DOE)

DEPARTMENT OF ENERGY

Semiannual Regulatory Agenda

10 CFR Chs. II, III, and X

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: Notice of semiannual regulatory agenda.

SUMMARY: The Department of Energy (DOE) has prepared and is making available its portion of the semiannual Unified Agenda of Federal Regulatory and Deregulatory Actions (Agenda), including its Regulatory Plan (Plan), pursuant to Executive Order 12866 ''Regulatory Planning and Review,'' 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

SUPPLEMENTARY INFORMATION: The Agenda is a government-wide compilation of upcoming and ongoing regulatory activity, including a brief description of each rulemaking and a timetable for action. The Agenda also includes a list of regulatory actions completed since publication of the last Agenda. The Department of Energy's portion of the Agenda includes regulatory actions called for by the Energy Policy Act of 2005, the Energy Independence and Security Act of 2007, and programmatic needs of DOE offices.

The Internet is the basic means for disseminating the Agenda and providing users the ability to obtain information from the Agenda database. DOE's entire fall 2010 Agenda can be accessed online by going to: www.reginfo.gov. Agenda entries reflect the status of activities as of approximately November 30, 2010.

Publication in the **Federal Register** is mandated by the Regulatory Flexibility Act (5 U.S.C. 602) only for Agenda entries that require either a regulatory flexibility analysis or periodic review under section 610 of that Act. Included in this Agenda are two rulemakings: (1) Energy Efficiency Standards for Pool Heaters and Direct Heating and equipment and Water Heaters; and (2) Energy Efficiency Standards for Certain Commercial and Industrial Electric Motors.

The Plan appears in both the online Agenda and the **Federal Register** and includes the most important of DOE's significant regulatory actions and a Statement of Regulatory and Deregulatory Priorities.

Issued in Washington, DC, on September 17, 2010.

Scott Blake Harris,

General Counsel.

Energy Efficiency and Renewable Energy—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
300	Energy Efficiency Standards for Certain Commercial and Industrial Electric Motors	1904–AC28

Energy Efficiency and Renewable Energy—Completed Actions

Sequence Number	Title	Regulation Identifier Number
301	Energy Efficiency Standards for Pool Heaters and Direct Heating Equipment and Water Heaters	1904–AA90

Department of Energy (DOE) — Long-Term Actions

Energy Efficiency and Renewable Energy (EE)

300. ● ENERGY EFFICIENCY STANDARDS FOR CERTAIN COMMERCIAL AND INDUSTRIAL ELECTRIC MOTORS

Legal Authority: 42 USC 6313(b)(4)(B)

Abstract: The Energy Policy and Conservation Act (EPCA), as amended, directs the U.S. DOE to issue amended standards for commercial and industrial electric motors no later than December 19, 2012. (42 U.S.C. 6313(b)(4)(B)) The framework document begins the rulemaking process to satisfy this requirement and presents the proposed methodology that DOE will use throughout the rulemaking process.

Timetable:

Action	Date	FR Cite
Notice: Public Meeting Framework Document Availibility	09/20/10	75 FR 59657
Comment Period End	11/24/10	
NPRM	04/00/12	
Final Action	12/00/12	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: James Raba, Office of Building Technologies Program, EE–2J, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585
Phone: 202 586–8654
Email: jim.raba@ee.doe.gov

RIN: 1904–AC28

Department of Energy (DOE)

Completed Actions

Energy Efficiency and Renewable Energy (EE)

301. ENERGY EFFICIENCY STANDARDS FOR POOL HEATERS AND DIRECT HEATING EQUIPMENT AND WATER HEATERS

Legal Authority: 42 USC 6295(e)

Abstract: The Energy Policy and Conservation Act, as amended, establishes initial energy efficiency standard levels for many types of major residential appliances and generally requires DOE to undertake two subsequent rulemakings, at specified times, to determine whether the existing standard for a covered product should be amended. This is the initial review of the statutory standards for pool heaters and direct heating equipment. This is the second review for water heaters.

Completed:

Reason	Date	FR Cite
Final Action	04/16/10	75 FR 2012

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Mohammed Khan
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Federal Register

Monday,
December 20, 2010

Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

21 CFR Ch. I

42 CFR Chs. I-V

45 CFR Subtitle A; Subtitle B, Chs. II, III, and XIII

Regulatory Agenda

AGENCY: Office of the Secretary, HHS.

ACTION: Semiannual Regulatory Agenda.

SUMMARY: The Regulatory Flexibility Act of 1980 and Executive Order (EO) 12866 require the semi-annual issuance of an inventory of rulemaking actions under development throughout the Department with a view to offering summarized information about forthcoming regulatory actions for public review.

FOR FURTHER INFORMATION CONTACT: Dawn L. Smalls, Executive Secretary, Department of Health and Human Services, Washington, DC 20201.

SUPPLEMENTARY INFORMATION: The information provided in the Agenda presents a forecast of the rulemaking activities that the Department of Health and Human Services (HHS) expects to undertake in the foreseeable future. Rulemakings are grouped according to pre-rulemaking actions, proposed rules, final rules, long-term actions, and rulemaking actions completed since the Spring 2009 Agenda was published.

Please note that the rulemaking abstracts included in this paper issue of the **Federal Register** relate strictly to those prospective rulemakings that are likely to have a significant economic impact on a substantial number of small entities, as required by the Regulatory Flexibility Act of 1980. Also available in this issue of the **Register** is the Department's submission to the Fiscal Year 2011 Regulatory Plan, as required under Executive Order 12866.

The purpose of the Agenda is to encourage more effective public participation in the regulatory process, and HHS invites all interested members of the public to comment on the rulemaking actions included in this issuance of the Agenda. The complete Regulatory Agenda of the Department is accessible online at www.reginfo.gov in an interactive format that offers users enhanced capabilities to obtain information from the Agenda's database.

Dated: September 21, 2010.

Dawn L. Smalls,

Executive Secretary,

Department of Health and Human Services.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
302	Revisions to Regulations Addressing the OIG's Authority To Impose Civil Money Penalties and Assessments **(Section 610 Review)**	0991–AB03

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
303	Modifications to the HIPAA Privacy, Security, and Enforcement Rules Under the Health Information Technology for Economic and Clinical Health Act **(Reg Plan Seq No. 41)**	0991–AB57

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
304	Health Information Technology: Initial Set of Standards, Implementation Specifications, and Certification Criteria for Electronic Health Record Technology **(Rulemaking Resulting From a Section 610 Review)**	0991–AB58

Substance Abuse and Mental Health Services Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
305	Requirements Governing the Use of Seclusion and Restraint in Certain Nonmedical Community-Based Facilities for Children and Youth	0930–AA10
306	Opioid Drugs in Maintenance or Detoxification Treatment of Opiate Addiction **(Section 610 Review)**	0930–AA14

HHS

Centers for Disease Control and Prevention—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
307	Control of Communicable Diseases: Foreign and Possessions Regulations; Nonhuman Primate	0920–AA23

Centers for Disease Control and Prevention—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
308	Control of Communicable Diseases: Foreign and Possessions	0920–AA12
309	Possession, Use, and Transfer of Select Agents and Toxins: Chapare Virus **(Section 610 Review)**	0920–AA32

Centers for Disease Control and Prevention—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
310	Quality Assurance Requirements for Respirators	0920–AA04

Food and Drug Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
311	Food Labeling: Safe Handling Statements, Labeling of Shell Eggs; Refrigeration of Shell Eggs Held for Retail Distribution **(Section 610 Review)**	0910–AG06

Food and Drug Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
312	Electronic Submission of Data From Studies Evaluating Human Drugs and Biologics **(Reg Plan Seq No. 45)**	0910–AC52
313	Over-the-Counter (OTC) Drug Review—Cough/Cold (Antihistamine) Products	0910–AF31
314	Over-the-Counter (OTC) Drug Review—Internal Analgesic Products	0910–AF36
315	Over-the-Counter (OTC) Drug Review—Laxative Drug Products	0910–AF38
316	Over-the-Counter (OTC) Drug Review—Sunscreen Products	0910–AF43
317	Over-the-Counter (OTC) Drug Review—Topical Antimicrobial Drug Products	0910–AF69
318	Import Tolerances for Residues of Unapproved New Animal Drugs in Food	0910–AF78
319	Laser Products; Amendment to Performance Standard	0910–AF87
320	Pet Food Labeling Requirements	0910–AG09
321	Process Controls for Animal Feed Ingredients and Mixed Animal Feed	0910–AG10
322	Over-the-Counter (OTC) Drug Review—Pediatric Dosing for Cough/Cold Products	0910–AG12
323	Electronic Distribution of Content of Labeling for Human Prescription Drug and Biological Products	0910–AG18
324	Unique Device Identification **(Reg Plan Seq No. 46)**	0910–AG31
325	Cigars Subject to the Family Smoking Prevention and Tobacco Control Act	0910–AG38
326	Cigarette Warning Label Statements **(Reg Plan Seq No. 47)**	0910–AG41
327	General Hospital and Personal Use Devices: Designation of Special Controls for Infusion Pumps	0910–AG54
328	Food Labeling: Nutrition Labeling for Food Sold in Vending Machines **(Reg Plan Seq No. 48)**	0910–AG56
329	Food Labeling: Nutrition Labeling of Standard Menu Items in Chain Restaurants **(Reg Plan Seq No. 49)**	0910–AG57

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

HHS

Food and Drug Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
330	Postmarketing Safety Reporting Requirements for Human Drug and Biological Products	0910–AA97
331	Medical Gas Containers and Closures; Current Good Manufacturing Practice Requirements	0910–AC53
332	Content and Format of Labeling for Human Prescription Drugs and Biologics; Requirements for Pregnancy and Lactation Labeling	0910–AF11
333	Infant Formula: Current Good Manufacturing Practices; Quality Control Procedures; Notification Requirements; Records and Reports; and Quality Factors **(Reg Plan Seq No. 50)**	0910–AF27
334	Over-the-Counter (OTC) Drug Review—Cough/Cold (Bronchodilator) Products	0910–AF32
335	Over-the-Counter (OTC) Drug Review—Cough/Cold (Combination) Products	0910–AF33
336	Over-the-Counter (OTC) Drug Review—External Analgesic Products	0910–AF35
337	Over-the-Counter (OTC) Drug Review—Skin Protectant Products	0910–AF42
338	Use of Materials Derived From Cattle in Human Food and Cosmetics	0910–AF47
339	Label Requirement for Food That Has Been Refused Admission Into the United States	0910–AF61

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Food and Drug Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
340	Current Good Manufacturing Practice in Manufacturing, Packing, Labeling, or Holding Operations for Dietary Supplements	0910–AB88
341	Over-the-Counter (OTC) Drug Review—Cough/Cold (Nasal Decongestant) Products	0910–AF34
342	Over-the-Counter (OTC) Drug Review—Labeling of Drug Products for OTC Human Use	0910–AF37
343	Over-the-Counter (OTC) Drug Review—Ophthalmic Products	0910–AF39
344	Over-the-Counter (OTC) Drug Review—Oral Health Care Products	0910–AF40
345	Over-the-Counter (OTC) Drug Review—Vaginal Contraceptive Products	0910–AF44
346	Over-the-Counter (OTC) Drug Review—Weight Control Products	0910–AF45
347	Over-the-Counter (OTC) Drug Review—Overindulgence in Food and Drink Products	0910–AF51
348	Over-the-Counter (OTC) Drug Review—Antacid Products	0910–AF52
349	Over-the-Counter (OTC) Drug Review—Skin Bleaching Products	0910–AF53
350	Over-the-Counter (OTC) Drug Review—Stimulant Drug Products	0910–AF56
351	Over-the-Counter (OTC) Drug Review—Antidiarrheal Drug Products	0910–AF63
352	Over-the-Counter (OTC) Drug Review—Urinary Analgesic Drug Products	0910–AF70
353	Over-the-Counter (OTC) Drug Review—Certain Category II Active Ingredients	0910–AF95
354	Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures **(Section 610 Review)**	0910–AG14
355	Produce Safety Regulation	0910–AG35
356	Modernization of the Current Food Good Manufacturing Practices Regulation	0910–AG36

Food and Drug Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
357	Sterility Requirement for Aqueous-Based Drug Products for Oral Inhalation **(Completion of a Section 610 Review)**	0910–AG25
358	Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco To Protect Children and Adolescents	0910–AG33
359	Over-the-Counter Human Drugs; Labeling Requirements **(Completion of a Section 610 Review)**	0910–AG34

Centers for Medicare & Medicaid Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
360	Home Health Agency (HHA) Conditions of Participation (CoPs) (CMS-3819-P) **(Section 610 Review)**	0938–AG81

HHS

Centers for Medicare & Medicaid Services—Proposed Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
361	Requirements for Long-Term Care Facilities: Hospice Services (CMS-3140-F) **(Section 610 Review)**	0938–AP32
362	Influenza Vaccination Standard for Certain Medicare Participating Providers and Suppliers(CMS-3213-P)	0938–AP92
363	Hospital Conditions of Participation: Requirements for Hospital Inpatient Psychiatric and Rehabilitation Units Excluded From the Prospective Payment System and LTCH Requirements (CMS-3177-P)	0938–AP97
364	Proposed Changes to the Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and FY 2012 Rates and to the Long-Term Care Hospital PPS and RY 2012 Rates (CMS-1518-P) **(Reg Plan Seq No. 55)**	0938–AQ24
365	Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2012 (CMS-1525-P) **(Reg Plan Seq No. 57)**	0938–AQ26
366	Changes to the ESRD Prospective Payment System for CY 2012 (CMS-1577-P)	0938–AQ27
367	Federal Funding for Medicaid Eligibility Determination and Enrollment Activities (CMS-2346-P)	0938–AQ53

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Centers for Medicare & Medicaid Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
368	Revisions to Payment Policies Under the Physician Fee Schedule and Part B for CY 2011 (CMS-1503-C)	0938–AP79
369	Changes to the Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System for CY 2011 (CMS-1504-C)	0938–AP82

Centers for Medicare & Medicaid Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
370	Revisions to the Medicare Advantage and Medicare Prescription Drug Benefit Programs for Contract Year 2011 (CMS-4085-F)	0938–AP77
371	Electronic Health Record (EHR) Incentive Program (CMS-0033-F)	0938–AP78
372	Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System	0938–AP80
373	Hospital IPPS for Acute Care Hospitals and Fiscal Year 2010 Rates and to the Long-Term Care Hospital PPS and Rate Year 2010 Rates (CMS-1406-N)	0938–AQ03

Department of Health and Human Services (HHS)
Office of the Secretary (OS)

Proposed Rule Stage

302. REVISIONS TO REGULATIONS ADDRESSING THE OIG'S AUTHORITY TO IMPOSE CIVIL MONEY PENALTIES AND ASSESSMENTS (SECTION 610 REVIEW)

Legal Authority: 42 USC 1320a–7a; 42 USC 1395mm; 42 USC 1395w–27; 42 USC 1396b; PL 99–660; PL 107–188

Abstract: This proposed rule would revise part 1003, addressing the Office of Inspector General's authority to propose the imposition of civil money penalties and assessments by reorganizing and simplifying existing regulatory text and eliminating obsolete references contained in the current regulations. Among the proposed revisions, this rule would establish separate subparts within part 1003 for various categories of violations; clarify the availability of exclusion for certain violations in addition to civil money penalties and assessments; date various references to managed care organization authorities; and clarify the application of section 1140 of the Social Security Act with respect to the misuse of certain Departmental symbols, emblems, or names through Internet and e mail communications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/11	
NPRM Comment Period End	06/00/11	

Regulatory Flexibility Analysis Required: No

Agency Contact: Patrice S. Drew, Department of Health and Human Services, Office of the Secretary, Office of the Inspector General, 330 Independence Avenue SW., Washington, DC 20201
Phone: 202 619–1368
Email: patrice.drew@hhs.gov

RIN: 0991–AB03

Department of Health and Human Services (HHS)
Office of the Secretary (OS)

Final Rule Stage

303. MODIFICATIONS TO THE HIPAA PRIVACY, SECURITY, AND ENFORCEMENT RULES UNDER THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT

Regulatory Plan: This entry is Seq. No. 41 in part II of this issue of the **Federal Register**.

RIN: 0991–AB57

Department of Health and Human Services (HHS)
Office of the Secretary (OS)

Completed Actions

304. HEALTH INFORMATION TECHNOLOGY: INITIAL SET OF STANDARDS, IMPLEMENTATION SPECIFICATIONS, AND CERTIFICATION CRITERIA FOR ELECTRONIC HEALTH RECORD TECHNOLOGY (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Legal Authority: 42 USC 300jj–14

Abstract: The Department of Health and Human Services (HHS), Office of the National Coordinator for Health Information Technology, will issue an interim final rule with a request for comments to adopt an initial set of standards, implementation specifications, and certification criteria, as required by section 3004(b)(1) of the Public Health Service Act. The certification criteria adopted in this initial set establish the technical capabilities and related standards that certified electronic health record (EHR) technology will need to include in support of the Medicare and Medicaid EHR Incentive Programs.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/13/10	75 FR 2014
Interim Final Rule Comment Period End	03/15/10	
Interim Final Rule Effective	02/12/10	
Final Action	07/28/10	75 FR 44590

Regulatory Flexibility Analysis Required: No

Agency Contact: Steven Posnack, Policy Analyst, Department of Health and Human Services, Office of the Secretary, Office of the National Coordinator for Health Information Technology, 200 Independence Avenue SW., Washington, DC 20201
Phone: 202 690–7151

RIN: 0991–AB58

Department of Health and Human Services (HHS)
Substance Abuse and Mental Health Services Administration (SAMHSA)

Long-Term Actions

305. REQUIREMENTS GOVERNING THE USE OF SECLUSION AND RESTRAINT IN CERTAIN NONMEDICAL COMMUNITY–BASED FACILITIES FOR CHILDREN AND YOUTH

Legal Authority: PL 106–310, 42 USC 290jj to 290jj–2

Abstract: The Secretary is required by statute to publish regulations governing States that license nonmedical, community-based residential facilities for children and youth. The regulation requires States to develop licensing rules and monitoring requirements concerning behavior management practice that will ensure compliance; requires States to develop and implement such licensing rules and implementation requirements within one year; and ensures that States require such facilities to have adequate staff, and that the States provide training for professional staff.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Paolo Del Vecchio, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Room 13–103, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
Phone: 301 443–2619

RIN: 0930–AA10

306. OPIOID DRUGS IN MAINTENANCE OR DETOXIFICATION TREATMENT OF OPIATE ADDICTION (SECTION 610 REVIEW)

Legal Authority: 21 USC 823 (9); 42 USC 257a; 42 USC 290aa(d); 42 USC 290dd–2; 42 USC 300xx–23; 42 USC 300x–27(a); 42 USC 300y–11

Abstract: This rule will amend the Federal opioid treatment program regulations. It will modify the dispensing requirements for buprenorphine and buprenorphine combination products that are approved by the Food and Drug Administration (FDA) for opioid dependence and used in federally certified and registered opioid treatment programs.

Timetable:

Action	Date	FR Cite
NPRM	06/19/09	74 FR 29153
NPRM Comment Period End	08/18/09	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: No

Agency Contact: Nicholas Reuter, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Suite

HHS—SAMHSA — Long-Term Actions

2–1063, One Choke Cherry Road, Rockville, MD 20857

Phone: 240 276–2716

RIN: 0930–AA14

Department of Health and Human Services (HHS) — Proposed Rule Stage
Centers for Disease Control and Prevention (CDC)

307. CONTROL OF COMMUNICABLE DISEASES: FOREIGN AND POSSESSIONS REGULATIONS; NONHUMAN PRIMATE

Legal Authority: 42 USC 264

Abstract: By statute, the Secretary of Health and Human Services has broad authority to prevent introduction, transmission, and spread of communicable diseases from foreign countries into the United States and from one State or possession into another. The Secretary has delegated the authority to prevent the introduction of diseases from foreign countries to the Director, CDC. CDC also enforces entry requirements for certain animals, etiologic agents, and vectors deemed to be of public health significance. CDC is proposing to amend its regulations related to the importation of live nonhuman primates (NHPs) by extending existing requirements for the importation of cynomolgus, African green, and rhesus monkeys to all NHPs. The agency also is proposing to reduce the frequency at which importers of the three species are required to renew their registrations, (from every 180 days to every two years). CDC proposes to incorporate existing guidelines into the regulations and add new provisions to address NHPs imported as part of a circus or trained animal act, NHPs imported by zoological societies, the transfer of NHPs from approved laboratories, and non-live imported NHP products. CDC is also proposing that all NHPs be imported only through ports of entry where a CDC quarantine station is located.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Stacy Howard, Department of Health and Human Services, Centers for Disease Control and Prevention, MS E03, CLFT Building 16, Room 4324, Atlanta, GA 30329
Phone: 404 498–1600
Email: showard@cdc.gov

RIN: 0920–AA23

Department of Health and Human Services (HHS) — Final Rule Stage
Centers for Disease Control and Prevention (CDC)

308. CONTROL OF COMMUNICABLE DISEASES: FOREIGN AND POSSESSIONS

Legal Authority: 42 USC 243; 42 USC 264 and 265; 42 USC 267 and 268; 42 USC 270 and 271

Abstract: By statute, the Secretary of Health and Human Services has broad authority to prevent introduction, transmission, and spread of communicable diseases from foreign countries into the United States and from one State or possession into another. Communicable disease regulations are divided into two parts: Part 71 pertaining to foreign arrivals and part 70 pertaining to interstate matters. This rule (42 CFR Part 71) will update and improve CDC's response to both global and domestic disease threats by creating a multi-tiered illness detection and response process thus substantially enhancing the public health system's ability to slow the introduction, transmission, and spread of communicable disease. The final rule focuses primarily on requirements relating to the reporting of deaths and illnesses onboard aircrafts and ships, and the collection of specific traveler contact information for the purpose of CDC contacting travelers in the event of an exposure to a communicable disease.

Timetable:

Action	Date	FR Cite
NPRM	11/30/05	70 FR 71892
NPRM Comment Period End	01/20/06	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Stacy Howard, Department of Health and Human Services, Centers for Disease Control and Prevention, MS E03, CLFT Building 16, Room 4324, Atlanta, GA 30329
Phone: 404 498–1600
Email: showard@cdc.gov

RIN: 0920–AA12

309. POSSESSION, USE, AND TRANSFER OF SELECT AGENTS AND TOXINS: CHAPARE VIRUS (SECTION 610 REVIEW)

Legal Authority: PL 107–188

Abstract: The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 authorizes the HHS Secretary to regulate the possession, use, and transfer of select agents and toxins that have the potential to pose a severe threat to public health and safety. These regulations are set forth at 42 CFR 73. Criteria used to determine whether a select agent or toxin should be included under the provisions of these regulations are based on: (1) The effect on human health as a result of exposure to the agent or toxin, (2) the degree of contagiousness of the agent or toxin, (3) the methods by which the agent or toxin is transferred to humans, (4) the availability and effectiveness of pharmacotherapies and immunizations to treat and prevent and illness resulting from infection by the agent or toxin, and (5) any other criteria, including the needs of children and other vulnerable populations that the HHS Secretary considers appropriate. Based on these criteria, we are proposing to amend the list of HHS select agents and toxins by adding Chapare virus to the list. After

HHS—CDC **Final Rule Stage**

consulting with subject matter experts from CDC, the National Institutes of Health (NIH), the Food Drug Administration (FDA), the United States Department of Agriculture (USDA) /Animal and Plant Health Inspection Service (APHIS), USDA/Agricultural Research Service (ARS), USDA/CVB (Center for Veterinary Biologics), and the Department of Defense (DOD)/United States Army Medical Research Institute for Infectious Diseases (USAMRIID) and review of relevant published studies, we believe the Chapare virus should be added to the list of HHS select agents and toxins based on our conclusion that the Chapare virus has been phylogenetically identified as a Clade B arenavirus and is closely related to other South American arenaviruses that cause haemorrhagic fever, particularly Sabia virus.

Timetable:

Action	Date	FR Cite
NPRM	08/19/09	74 FR 159
NPRM Comment Period End	10/19/09	
Final Action	11/00/11	

Regulatory Flexibility Analysis Required: No

Agency Contact: Robbin Weyant, Department of Health and Human Services, Centers for Disease Control and Prevention, CLFT Building 20, Room 4202, 1600 Clifton Road NE., Atlanta, GA 30333
Phone: 404 718–2000

RIN: 0920–AA32

Department of Health and Human Services (HHS)
Centers for Disease Control and Prevention (CDC)

Long-Term Actions

310. QUALITY ASSURANCE REQUIREMENTS FOR RESPIRATORS

Legal Authority: 29 USC 651 et seq; 30 USC 3; 30 USC 5; 30 USC 7; 30 USC 811; 30 USC 842(h); 30 USC 844

Abstract: NIOSH plans to modify the Administrative/Quality Assurance sections of 42 CFR part 84, Approval of Respiratory Protective Devices. Areas for potential modification in this module are: (1) Upgrade of quality assurance requirements; (2) ability to use private sector quality auditors and private sector testing laboratories in the approval program; and (3) revised approval label requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/10/08	73 FR 75045
NPRM Comment Period End	02/09/09	
NPRM Comment Period Reopened	03/04/09	74 FR 9381
NPRM Comment Period Reopened End	04/10/09	
NPRM Comment Period Reopening Extended	05/21/09	74 FR 23815
NPRM Comment Period End	10/09/09	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: William E. Newcomb, Physical Scientist, Department of Health and Human Services, Centers for Disease Control and Prevention, 626 Cochran Mill Road, PO Box 18070, Pittsburgh, PA 15236
Phone: 412 386–5200

RIN: 0920–AA04

Department of Health and Human Services (HHS)
Food and Drug Administration (FDA)

Prerule Stage

311. FOOD LABELING: SAFE HANDLING STATEMENTS, LABELING OF SHELL EGGS; REFRIGERATION OF SHELL EGGS HELD FOR RETAIL DISTRIBUTION (SECTION 610 REVIEW)

Legal Authority: 15 USC 1453 to 1455; 21 USC 321; 21 USC 331; 21 USC 342 and 343; 21 USC 348; 21 USC 371; 42 USC 243; 42 USC 264; 42 USC 271

Abstract: Section 101.17(h) (21 CFR 101.17(h)) describes requirements for the labeling of the cartons of shell eggs that have not been treated to destroy Salmonella microorganisms. Section 115. 50 (21 CFR 115.50) describes requirements for refrigeration of shell eggs held for retail distribution. Section 16.5(a)(4) (21 CFR 16.5(a)(4)) provides that part 16 does not apply to a hearing on an order for relabeling, diversion, or destruction of shell eggs under section 361 of the Public Health Service Act (42 U.S.C. 264) and sections 101.17(h) and 115.50. FDA amended 21 CFR 101.17(h) on August 20, 2007 (72 FR 46375) to permit the safe handling statement to appear on the inside lid of egg cartons to provide the industry greater flexibility in the placement of the statement, provided the words ''keep refrigerated'' appear on the principal display panel or information panel. FDA is undertaking a review of 21 CFR sections 101.17(h), 115.50, and 16.5(a)(4) under section 610 of the Regulatory Flexibility Act. The purpose of this review is to determine whether the regulations in sections 101.17(h), 115.50 and 16.5(a)(4) should be continued without change, or whether they should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact on a substantial number of small entities. FDA will consider, and is soliciting comments on, the following: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

HHS—FDA **Prerule Stage**

Timetable:

Action	Date	FR Cite
Begin Review	12/15/09	
End Review	12/00/10	

Regulatory Flexibility Analysis Required: Undetermined

Agency Contact: Geraldine A. June, Supervisor, Product Evaluation and Labeling Team, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, (HFS–820), 5100 Paint Branch Parkway, College Park, MD 20740
Phone: 301 436–1802
Fax: 301 436–2636
Email: geraldine.june@fda.hhs.gov

RIN: 0910–AG06

Department of Health and Human Services (HHS) Food and Drug Administration (FDA) — Proposed Rule Stage

312. ELECTRONIC SUBMISSION OF DATA FROM STUDIES EVALUATING HUMAN DRUGS AND BIOLOGICS

Regulatory Plan: This entry is Seq. No. 45 in part II of this issue of the **Federal Register**.

RIN: 0910–AC52

313. OVER–THE–COUNTER (OTC) DRUG REVIEW—COUGH/COLD (ANTIHISTAMINE) PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action addresses antihistamine labeling claims for the common cold.

Timetable:

Action	Date	FR Cite
Reopening of Administrative Record	08/25/00	65 FR 51780
NPRM (Amendment) (Common Cold)	10/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: M. Scott Furness, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO22, 10903 New Hamphsire Avenue, Silver Spring, MD 20993
Phone: 301 796–2090
Fax: 301 796–9899
Email: micheal.furness@fda.hhs.gov

RIN: 0910–AF31

314. OVER–THE–COUNTER (OTC) DRUG REVIEW—INTERNAL ANALGESIC PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379e

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The first action addresses products labeled to relieve upset stomach associated with overindulgence in food and drink and to relieve symptoms associated with a hangover. The second action addresses acetaminophen safety. The third action addresses products marketed for children under 2 years old and weight- and age-based dosing for children's products. The fourth action addresses combination products containing the analgesic acetaminophen or aspirin and sodium bicarbonate used as an antacid ingredient. The last document finalizes the internal analgesic products monograph.

Timetable:

Action	Date	FR Cite
NPRM (Amendment) (Required Warnings and Other Labeling)	12/26/06	71 FR 77314
NPRM Comment Period End	05/25/07	
Final Action (Required Warnings and Other Labeling)	04/29/09	74 FR 19385
Final Action (Correction)	06/30/09	74 FR 31177
Final Action (Technical Amendment)	11/25/09	74 FR 61512
NPRM (Acetaminophen)	03/00/11	
NPRM (Amendment) (Pediatric)	To Be	Determined
NPRM (Amendment) (Sodium Bicarbonate)	To Be	Determined
NPRM (Overindulgence/ Hangover)	To Be	Determined
Final Action (Internal Analgesics)	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF36

315. OVER–THE–COUNTER (OTC) DRUG REVIEW—LAXATIVE DRUG PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360 to 360a; 21 USC 371 to 371a

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The first NPRM listed will address the professional labeling for sodium phosphate drug products. The second NPRM listed will address all other professional labeling requirements for laxative drug products. The final action will address laxative drug products.

Timetable:

Action	Date	FR Cite
Final Action (Granular Psyllium)	03/29/07	72 FR 14669
NPRM (Professional Labeling—Sodium Phosphate)	12/00/10	
NPRM (Professional Labeling)	To Be	Determined
Final Action (Laxative Drug Products)	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF38

316. OVER–THE–COUNTER (OTC) DRUG REVIEW—SUNSCREEN PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The first action addresses active ingredients reviewed under Time and Extent Applications. The second action addresses other safety and effectiveness issues for OTC sunscreen drug products. The third action finalizes sunscreen labeling and testing requirements for both ultraviolet B and ultraviolet A radiation protection. The fourth action addresses the safety of sunscreen products. The last action addresses combination products containing sunscreen and insect repellent ingredients.

Timetable:

Action	Date	FR Cite
ANPRM (Sunscreen and Insect Repellent)	02/22/07	72 FR 7941
ANPRM Comment Period End	05/23/07	
NPRM (UVA/UVB)	08/27/07	72 FR 49070
NPRM Comment Period End	12/26/07	
NPRM (Safety and Effectiveness)	12/00/10	
Final Action (UVA/UVB)	12/00/10	
NPRM (Time and Extent Applications)	04/00/11	
ANPRM (Safety)	04/00/11	
NPRM (Sunscreen and Insect Repellent)	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF43

317. OVER–THE–COUNTER (OTC) DRUG REVIEW—TOPICAL ANTIMICROBIAL DRUG PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The first action addresses food handler products. The second action addresses testing requirements for healthcare professional products. The third action addresses the safety and effectiveness of consumer products. The final actions listed will address the healthcare, consumer, food handlers, and first aid antiseptic drug products respectively.

Timetable:

Action	Date	FR Cite
NPRM (Healthcare)	06/17/94	59 FR 31402
NPRM (Consumer)	03/00/11	
NPRM (Food Handlers)	To Be	Determined
NPRM (Testing — Healthcare Professional Products)	To Be	Determined
Final Action (Healthcare)	To Be	Determined
Final Action (Consumer)	To Be	Determined
Final Action (Food Handlers)	To Be	Determined
Final Action (First Aid Antiseptic)	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF69

318. IMPORT TOLERANCES FOR RESIDUES OF UNAPPROVED NEW ANIMAL DRUGS IN FOOD

Legal Authority: 21 USC 360b(a)(6); 21 USC 371

Abstract: The Food and Drug Administration (FDA) plans to publish a proposed rule related to the implementation of the import tolerances provision of the Animal Drug Availability Act of 1996 (ADAA). The ADAA authorizes FDA to establish tolerances for unapproved new animal drugs where edible portions of animals imported into the United States may contain residues of such drugs (import tolerances). It is unlawful to import animal-derived food that bears or contains residues of a new animal drug that is not approved in the United States, unless FDA has established an import tolerance for that new animal drug and the residue of the new animal drug in the animal-derived food does not exceed that tolerance.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	
NPRM Comment Period End	06/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF78

319. LASER PRODUCTS; AMENDMENT TO PERFORMANCE STANDARD

Legal Authority: 21 USC 360hh to 360ss; 21 USC 371; 21 USC 393

Abstract: FDA is proposing to amend the performance standard for laser products to achieve closer harmonization between the current standard and the International Electrotechnical Commission (IEC) standard for laser products and medical laser products. The proposed amendment is intended to update FDA's performance standard to reflect advancements in technology. The proposal would adopt portions of an IEC standard to achieve greater harmonization and reflect current science. In addition, the proposal would include an alternative mechanism for providing certification and identification, address novelty laser products, and clarify the military exemption for laser products.

Timetable:

Action	Date	FR Cite
NPRM	06/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF87

320. PET FOOD LABELING REQUIREMENTS

Legal Authority: 21 USC 343; 21 USC 371; PL 110–85, sec 1002(a)(3)

Abstract: The President signed into law the Food and Drug Administration Amendments Act of 2007 (FDAAA) on September 27, 2007 (Pub. L. 110-85). Title X of the FDAAA includes several provisions pertaining to food safety, including the safety of pet food. Section 1002(a) of the new law directs FDA to issue new regulations to establish updated standards for the labeling of pet food that include nutritional and ingredient information. This same provision of the law also directs that, in developing these new regulations, FDA obtain input from its stakeholders, including the Association of American Feed Control Officials, veterinary medical associations, animal health organizations, and pet food manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	
NPRM Comment Period End	06/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: William Burkholder, Veterinary Medical Officer, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine, Room 2642 (MPN–4, HFV–228), 7519 Standish Place, Rockville, MD 20855
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RIN: 0910–AG09

321. PROCESS CONTROLS FOR ANIMAL FEED INGREDIENTS AND MIXED ANIMAL FEED

Legal Authority: 21 USC 342; 21 USC 350e; 21 USC 371; 21 USC 374; 42 USC 264; PL 110–85, sec 1002(a)(2)

Abstract: The Food and Drug Administration (FDA) is proposing regulations for process controls for animal feed ingredients and mixed animal feed to provide greater assurance that marketed animal feed ingredients and mixed feeds intended for all animals, including pets, are safe. This action is being taken as part of the FDA's Animal Feed Safety System initiative. The proposed process controls will apply to animal feed ingredients and mixed animal feed, including pet food. This action is also being taken to carry out the requirements of the Food and Drug Administration Amendments Act of 2007. Section 1002(a) directs FDA to establish by regulation processing standards for pet food. This same provision of the law also directs that, in developing these new regulations, FDA obtain input from its stakeholders, including the Association of American Feed Control Officials, veterinary medical associations, animal health organizations, and pet food manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	
NPRM Comment Period End	06/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Kim Young, Deputy Director, Division of Compliance, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine, Room 106 (MPN–4, HFV–230), 7519 Standish Place, Rockville, MD 20855
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RIN: 0910–AG10

322. OVER–THE–COUNTER (OTC) DRUG REVIEW—PEDIATRIC DOSING FOR COUGH/COLD PRODUCTS

Legal Authority: 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a monograph is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action will propose changes to the final monograph to address safety and efficacy issues associated with pediatric cough and cold products.

Timetable:

Action	Date	FR Cite
NPRM	06/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: M. Scott Furness, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO22, 10903

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RIN: 0910–AG12

323. ELECTRONIC DISTRIBUTION OF CONTENT OF LABELING FOR HUMAN PRESCRIPTION DRUG AND BIOLOGICAL PRODUCTS

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

Abstract: This rule would require electronic package inserts for human drug and biological prescription products, in lieu of paper, which is currently used. These inserts contain prescribing information intended for healthcare practitioners. This would ensure that the information accompanying the product is the most up-to-date information regarding important safety and efficacy issues about these products.

Timetable:

Action	Date	FR Cite
NPRM	04/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AG18

324. UNIQUE DEVICE IDENTIFICATION

Regulatory Plan: This entry is Seq. No. 46 in part II of this issue of the **Federal Register**.

RIN: 0910–AG31

325. CIGARS SUBJECT TO THE FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Legal Authority: 21 USC 301 et seq, The Federal Food, Drug, and Cosmetic Act; PL 111–31, The Family Smoking Prevention and Tobacco Control Act

Abstract: The Family Smoking Prevention and Tobacco Control Act (the Tobacco Control Act) provides FDA authority to regulate cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco. Section 901 of the Federal Food, Drug, and Cosmetic Act, as amended by the Tobacco Control Act, permits FDA to issue regulations deeming other tobacco products to be subject to the Tobacco Control Act. This proposed rule would deem cigars to be subject to the Tobacco Control Act and include provisions to address public health concerns raised by cigars.

Timetable:

Action	Date	FR Cite
NPRM	06/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AG38

326. CIGARETTE WARNING LABEL STATEMENTS

Regulatory Plan: This entry is Seq. No. 47 in part II of this issue of the **Federal Register**.

RIN: 0910–AG41

327. ● GENERAL HOSPITAL AND PERSONAL USE DEVICES: DESIGNATION OF SPECIAL CONTROLS FOR INFUSION PUMPS

Legal Authority: 21 USC 351 371; 21 USC 360 and 360c; 21 USC 360e and 360j; 21 USC 371

Abstract: Since 2003, FDA has seen a dramatic increase in the number of device recalls, as well as an increase in the number of death and serious injury reports submitted regarding infusion pumps. An analysis of the reports reveals that a majority of the recalls and failures were caused by user error and/or device design flaw. As a result of these incidents, FDA is proposing to designate a special controls guidance document as the special controls for infusion pumps. The agency believes that establishing these special controls for infusion pumps is necessary to provide reasonable assurance of the safety and effectiveness of these devices.

Timetable:

Action	Date	FR Cite
NPRM	09/00/11	
NPRM Comment Period End	12/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AG54

328. ● FOOD LABELING: NUTRITION LABELING FOR FOOD SOLD IN VENDING MACHINES

Regulatory Plan: This entry is Seq. No. 48 in part II of this issue of the **Federal Register**.

RIN: 0910–AG56

329. ● FOOD LABELING: NUTRITION LABELING OF STANDARD MENU ITEMS IN CHAIN RESTAURANTS

Regulatory Plan: This entry is Seq. No. 49 in part II of this issue of the **Federal Register**.

RIN: 0910–AG57

Department of Health and Human Services (HHS)
Food and Drug Administration (FDA)

Final Rule Stage

330. POSTMARKETING SAFETY REPORTING REQUIREMENTS FOR HUMAN DRUG AND BIOLOGICAL PRODUCTS

Legal Authority: 42 USC 216; 42 USC 241; 42 USC 242a; 42 USC 262 and 263; 42 USC 263a to 263n; 42 USC 264; 42 USC 300aa; 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 360b to 360j; 21 USC 361a; 21 USC 371; 21 USC 374; 21 USC 375; 21 USC 379e; 21 USC 381

Abstract: The final rule would amend the postmarketing expedited and periodic safety reporting regulations for human drugs and biological products to revise certain definitions and reporting formats as recommended by the International Conference on Harmonisation and to define new terms; to add to or revise current reporting requirements; to revise certain reporting time frames; and to propose other revisions to these regulations to enhance the quality of safety reports received by FDA. These revisions were proposed as part of a single rulemaking (68 FR 12406) to clarify and revise both premarketing and postmarketing safety reporting requirements for human drug and biological products. FDA plans to finalize the premarket and postmarket safety reporting requirements in separate final rules.

Timetable:

Action	Date	FR Cite
NPRM	03/14/03	68 FR 12406
NPRM Comment Period Extended	06/18/03	
NPRM Comment Period End	07/14/03	
NPRM Comment Period Extension End	10/14/03	
Final Action	08/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jane E. Baluss, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 51, Room 6362, 10903 New Hampshire Avenue, Silver Spring, MD 20993–0002
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RIN: 0910–AA97

331. MEDICAL GAS CONTAINERS AND CLOSURES; CURRENT GOOD MANUFACTURING PRACTICE REQUIREMENTS

Legal Authority: 21 USC 321; 21 USC 351 to 21 USC 353

Abstract: The Food and Drug Administration is amending its current good manufacturing practice regulations and other regulations to clarify and strengthen requirements for the label, color, dedication, and design of medical gas containers and closures. Despite existing regulatory requirements and industry standards for medical gases, there have been repeated incidents in which cryogenic containers of harmful industrial gases have been connected to medical oxygen supply systems in hospitals and nursing homes and subsequently administered to patients. These incidents have resulted in death and serious injury. There have also been several incidents involving high-pressure medical gas cylinders that have resulted in death and injuries to patients. These amendments, together with existing regulations, are intended to ensure that the types of incidents that have occurred in the past, as well as other types of foreseeable and potentially deadly medical gas accidents, do not occur in the future. FDA has described a number of proposals in the proposed rule including requiring that gas use outlet connections on portable cryogenic medical gas containers be permanently attached to the valve body.

Timetable:

Action	Date	FR Cite
NPRM	04/10/06	71 FR 18039
NPRM Comment Period End	07/10/06	
Final Action	10/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AC53

332. CONTENT AND FORMAT OF LABELING FOR HUMAN PRESCRIPTION DRUGS AND BIOLOGICS; REQUIREMENTS FOR PREGNANCY AND LACTATION LABELING

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 360b; 21 USC 360gg to 360ss; 21 USC 371; 21 USC 374; 21 USC 379e; 42 USC 216; 42 USC 241; 42 USC 262; 42 USC 264

Abstract: To amend the regulations governing the format and content of labeling for human prescription drugs and biological products (21 CFR parts 201.56, 201.57, and 201.80). Under FDA's current regulations, labeling concerning the use of prescription drugs in pregnancy uses letter categories (A, B, C, D, X) to characterize the risk to the fetus of using the drug in pregnancy. One of the deficiencies of the category system is that drugs may be assigned to the same category when the severity, incidence, and types of risk are quite different. Dissatisfaction with the category system has been expressed by health care providers, medical organizations, experts in the study of birth defects, women's health researchers, and women of childbearing age. Stakeholders consulted through a public hearing, several focus groups, and several advisory committees have recommended that FDA replace the category system with a concise narrative summarizing a product's risks to pregnant women and to women of childbearing age. Therefore, the revised format and the information provided in the labeling would make it easier for health care providers to understand the risks and benefits of drug use during pregnancy and lactation.

Timetable:

Action	Date	FR Cite
NPRM	05/29/08	73 FR 30831
NPRM Comment Period End	08/27/08	
Final Action	10/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF11

333. INFANT FORMULA: CURRENT GOOD MANUFACTURING PRACTICES; QUALITY CONTROL PROCEDURES; NOTIFICATION REQUIREMENTS; RECORDS AND REPORTS; AND QUALITY FACTORS

Regulatory Plan: This entry is Seq. No. 50 in part II of this issue of the **Federal Register**.

RIN: 0910–AF27

334. OVER–THE–COUNTER (OTC) DRUG REVIEW—COUGH/COLD (BRONCHODILATOR) PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action addresses labeling for single ingredient bronchodilator products.

Timetable:

Action	Date	FR Cite
NPRM (Amendment—Ephedrine Single Ingredient)	07/13/05	70 FR 40237
NPRM Comment Period End	11/10/05	
Final Action (Technical Amendment)	11/30/07	72 FR 67639
Final Action (Amendment—Single Ingredient Labeling)	01/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF32

335. OVER–THE–COUNTER (OTC) DRUG REVIEW—COUGH/COLD (COMBINATION) PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action addresses cough/cold drug products containing an oral bronchodilator (ephedrine and its salts) in combination with any expectorant or any oral nasal decongestant.

Timetable:

Action	Date	FR Cite
NPRM (Amendment)	07/13/05	70 FR 40232
NPRM Comment Period End	11/10/05	
Final Action (Technical Amendment)	03/19/07	72 FR 12730
Final Action	10/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF33

336. OVER–THE–COUNTER (OTC) DRUG REVIEW—EXTERNAL ANALGESIC PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The final action addresses the 2003 proposed rule on patches, plasters, and poultices. The proposed rule will address issues not addressed in previous rulemakings.

Timetable:

Action	Date	FR Cite
Final Action (GRASE dosage forms)	10/00/11	
NPRM (Amendment)	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF35

337. OVER–THE–COUNTER (OTC) DRUG REVIEW—SKIN PROTECTANT PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The first action identifies safe and effective skin protectant active ingredients to treat and prevent diaper rash. The second action addresses skin protectant products used to treat fever blisters and cold sores.

Timetable:

Action	Date	FR Cite
Final Action (Aluminum Acetate) (Technical Amendment)	03/06/09	74 FR 9759
Final Action (Technical Amendments)	02/01/08	73 FR 6014
Final Action (Diaper Rash)	10/00/11	
Final Action (Fever Blisters/Cold Sores)	10/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF42

338. USE OF MATERIALS DERIVED FROM CATTLE IN HUMAN FOOD AND COSMETICS

Legal Authority: 21 USC 342; 21 USC 361; 21 USC 371

Abstract: On July 14, 2004, FDA issued an interim final rule (IFR), effective immediately, to prohibit the use of certain cattle material and to address the potential risk of bovine spongiform encephalopathy (BSE) in human food, including dietary supplements, and cosmetics. Prohibited cattle materials under the IFR include specified risk materials, small intestine of all cattle, material from nonambulatory disabled cattle, material from cattle not inspected and passed for human consumption, and mechanically separated (MS) beef. Specified risk materials are the brain, skull, eyes, trigeminal ganglia, spinal cord, vertebral column (excluding the vertebrae of the tail, the transverse processes of the thoracic and lumbar vertebrae, and the wings of the sacrum), and dorsal root ganglia of cattle 30 months and older; and the tonsils and distal ileum of the small intestine of all cattle. Prohibited cattle materials do not include tallow that contains no more than 0.15 percent hexane-insoluble impurities and tallow derivatives. This action minimizes human exposure to materials that scientific studies have demonstrated are highly likely to contain the BSE agent in cattle infected with the disease. Scientists believe that the human disease variant Creutzfeldt-Jakob disease (vCJD) is likely caused by the consumption of products contaminated with the agent that causes BSE.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/14/04	69 FR 42256
Interim Final Rule Effective	07/14/04	
Interim Final Rule Comment Period End	10/12/04	
Interim Final Rule (Amendments)	09/07/05	70 FR 53063
Interim Final Rule (Amendments) Effective	10/07/05	
Interim Final Rule (Amendments) Comment Period End	11/07/05	
Interim Final Rule (Amendments)	04/17/08	73 FR 20785
Interim Final Rule (Amendments) Comment Period End	07/16/08	
Interim Final Rule (Amendments) Effective	07/16/08	
Final Action	04/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF47

339. LABEL REQUIREMENT FOR FOOD THAT HAS BEEN REFUSED ADMISSION INTO THE UNITED STATES

Legal Authority: 15 USC 1453 to 1455; 21 USC 321; 21 USC 342 and 343; 21 USC 371; 21 USC 374; 21 USC 381; 42 USC 216; 42 USC 264

Abstract: The final rule will require owners or consignees to label imported food that is refused entry into the United States. The label will read, ''UNITED STATES: REFUSED ENTRY.'' The proposal describes the label's characteristics (such as its size) and processes for verifying that the label has been affixed properly. We are taking this action to prevent the introduction of unsafe food into the United States, to facilitate the examination of imported food, and to implement section 308 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act) (Pub. L. 107-188).

Timetable:

Action	Date	FR Cite
NPRM	09/18/08	73 FR 54106
NPRM Comment Period End	12/02/08	
Final Action	03/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF61

Department of Health and Human Services (HHS) Food and Drug Administration (FDA) — Long-Term Actions

340. CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PACKING, LABELING, OR HOLDING OPERATIONS FOR DIETARY SUPPLEMENTS

Legal Authority: 21 USC 321; 21 USC 342; 21 USC 343; 21 USC 371; 21 USC 374; 21 USC 381; 21 USC 393; 42 USC 264

Abstract: The Food and Drug Administration published a final rule in the Federal Register of June 25, 2007 (72 FR 34752), on current good manufacturing practice (CGMP) regulations for dietary supplements. FDA also published an Interim Final Rule in the same Federal Register (72 FR 34959) that provided a procedure for requesting an exemption from the final rule requirement that the manufacturer conduct at least one appropriate test or examination to verify the identity of any component that is a dietary ingredient. This IFR allows for submission to, and review

by, FDA of an alternative to the required 100 percent identity testing of components that are dietary ingredients, provided certain conditions are met. This IFR also establishes a requirement for retention of records relating to the FDA's response to an exemption request.

Timetable:

Action	Date	FR Cite
ANPRM	02/06/97	62 FR 5700
ANPRM Comment Period End	06/06/97	
NPRM	03/13/03	68 FR 12157
NPRM Comment Period End	08/11/03	
Final Rule	06/25/07	72 FR 34752
Interim Final Rule	06/25/07	72 FR 34959
Interim Final Rule Comment Period End	10/24/07	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AB88

341. OVER–THE–COUNTER (OTC) DRUG REVIEW—COUGH/COLD (NASAL DECONGESTANT) PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action addresses the ingredient phenylpropanolamine.

Timetable:

Action	Date	FR Cite
NPRM (Amendment) (Sinusitis Claim)	08/02/04	69 FR 46119
NPRM Comment Period End	11/01/04	
NPRM (Phenylephrine Bitartrate)	11/02/04	69 FR 63482
NPRM Comment Period End	01/31/05	
NPRM (Phenyl-propanolamine)	12/22/05	70 FR 75988
NPRM Comment Period End	03/22/06	
Final Action (Amendment) (Sinusitis Claim)	10/31/05	70 FR 58974
Final Action (Phenylephrine Bitartrate)	08/01/06	71 FR 83358
Final Action (Phenyl-propanolamine)	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF34

342. OVER–THE–COUNTER (OTC) DRUG REVIEW—LABELING OF DRUG PRODUCTS FOR OTC HUMAN USE

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 371; 21 UCS 374; 21 USC 379e

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action addresses labeling for convenience (small) size OTC drug packages.

Timetable:

Action	Date	FR Cite
NPRM (Convenience Sizes)	12/12/06	71 FR 74474
NPRM Comment Period End	04/11/07	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF37

343. OVER–THE–COUNTER (OTC) DRUG REVIEW—OPHTHALMIC PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action finalizes the monograph for emergency first aid eyewash drug products.

Timetable:

Action	Date	FR Cite
NPRM (Amendment) (Emergency First Aid Eyewashes)	02/19/03	68 FR 7917
Final Action (Amendment) (Emergency First Aid Eyewashes)	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF39

344. OVER–THE–COUNTER (OTC) DRUG REVIEW—ORAL HEALTH CARE PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360 to 360a; 21 USC 371 to 371a

Abstract: The OTC drug review establishes conditions under which

OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The NPRM and final action will address oral health care products used to reduce or prevent dental plaque and gingivitis.

Timetable:

Action	Date	FR Cite
ANPRM (Plaque Gingivitis)	05/29/03	68 FR 32232
ANPRM Comment Period End	08/27/03	
NPRM (Plaque Gingivitis)	To Be	Determined
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF40

345. OVER–THE–COUNTER (OTC) DRUG REVIEW—VAGINAL CONTRACEPTIVE PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 358; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 379e

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The proposed rule addresses vaginal contraceptive drug products.

Timetable:

Action	Date	FR Cite
Final Action (Warnings)	12/19/07	72 FR 71769
NPRM (Vaginal Contraceptive Drug Products)	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Agency Contact: M. Scott Furness, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO22, 10903 New Hampshire Avenue, Silver Spring, MD 20993
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RIN: 0910–AF44

346. OVER–THE–COUNTER (OTC) DRUG REVIEW—WEIGHT CONTROL PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. The NPRM addresses the use of benzocaine for weight control. The first final action finalizes the 2005 proposed rule for weight control products containing phenylpropanolamine. The second final action will finalize the proposed rule for weight control products containing benzocaine.

Timetable:

Action	Date	FR Cite
NPRM (Phenyl-propanolamine)	12/22/05	70 FR 75988
NPRM Comment Period End	03/22/06	
NPRM (Benzocaine)	To Be	Determined
Final Action (Phenyl-propanolamine)	To Be	Determined
Final Action (Benzocaine)	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF45

347. OVER–THE–COUNTER (OTC) DRUG REVIEW—OVERINDULGENCE IN FOOD AND DRINK PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action addresses products containing bismuth subsalicylate for relief of symptoms of upset stomach due to overindulgence resulting from food and drink.

Timetable:

Action	Date	FR Cite
NPRM (Amendment)	01/05/05	70 FR 741
NPRM Comment Period End	04/05/05	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF51

348. OVER–THE–COUNTER (OTC) DRUG REVIEW—ANTACID PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. One action addresses the labeling of products containing sodium

bicarbonate as an active ingredient. The other action addresses the use of antacids to relieve upset stomach associated with overindulgence in food and drink.

Timetable:

Action	Date	FR Cite
Final Action (Sodium Bicarbonate Labeling)	To Be	Determined
Final Action (Overindulgence Labeling)	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF52

349. OVER–THE–COUNTER (OTC) DRUG REVIEW—SKIN BLEACHING PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action addresses skin bleaching drug products containing hydroquinone.

Timetable:

Action	Date	FR Cite
NPRM	08/29/06	71 FR 51146
NPRM Comment Period End	12/27/06	
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF53

350. OVER–THE–COUNTER (OTC) DRUG REVIEW—STIMULANT DRUG PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action addresses the use of stimulant active ingredients to relieve symptoms associated with a hangover.

Timetable:

Action	Date	FR Cite
NPRM (Amendment) (Hangover)	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF56

351. OVER–THE–COUNTER (OTC) DRUG REVIEW—ANTIDIARRHEAL DRUG PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. These actions address new labeling for antidiarrheal drug products.

Timetable:

Action	Date	FR Cite
NPRM (New Labeling)	To Be	Determined
Final Action (New Labeling)	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF63

352. OVER–THE–COUNTER (OTC) DRUG REVIEW—URINARY ANALGESIC DRUG PRODUCTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action addresses the products used for urinary pain relief.

Timetable:

Action	Date	FR Cite
NPRM (Urinary Analgesic)	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF70

353. OVER–THE–COUNTER (OTC) DRUG REVIEW—CERTAIN CATEGORY II ACTIVE INGREDIENTS

Legal Authority: 21 USC 321p; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 360; 21 USC 371

Abstract: The Food and Drug Administration (FDA) is proposing that certain ingredients in over-the-counter (OTC) drug products are not generally recognized as safe and effective or are misbranded. FDA issued this proposed rule because we did not receive any data and information on these ingredients in response to our request on December 31, 2003 (68 FR 75585). This rule will finalize the 2008 proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	06/19/08	73 FR 34895
NPRM Comment Period End	09/17/08	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AF95

354. PRESCRIPTION DRUG MARKETING ACT OF 1987; PRESCRIPTION DRUG AMENDMENTS OF 1992; POLICIES, REQUIREMENTS, AND ADMINISTRATIVE PROCEDURES (SECTION 610 REVIEW)

Legal Authority: 21 USC 331; 21 USC 333; 21 USC 351; 21 USC 352; 21 USC 353; 21 USC 360; 21 USC 371; 21 USC 374; 21 USC 381

Abstract: Pursuant to section 610 of the Regulatory Flexibility Act, FDA is currently undertaking a review of regulations promulgated under the Prescription Drug Marketing Act (PDMA) including those contained in 21 CFR part 203 and 21 CFR sections 205.3 and 205.50 (as amended in 64 FR 67762 and 67763). The purpose of this review is to determine whether the regulations in 21 CFR part 203 and 21 CFR sections 205.3 and 205.50 (as amended in 64 FR 67762 and 67763) should be continued without change, or whether they should be amended or rescinded, consistent with the stated objectives of applicable statues, to minimize adverse impacts on a substantial number of small entities. FDA solicited comments on the following: (1) The continued need for the regulations in 21 CFR part 203 and 21 CFR sections 205.3 and 205.50 (as amended in 64 FR 67762 and 67763); (2) the nature of complaints or comments received from the public concerning the regulations in 21 CFR part 203 and 21 CFR sections 205.3 and 205.50 (as amended in 64 FR 67762 and 67763); (3) the complexity of the regulations in 21 CFR part 203 and 21 CFR sections 205.3 and 205.50 (as amended in 64 FR 67762 and 67763); (4) the extent to which the regulations in 21 CFR part 203 and 21 CFR sections 205.3 and 205.50 (as amended in 64 FR 67762 and 67763) overlap, duplicate, or conflict with other Federal rules, and to the extent feasible, with State and local governmental rules, and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulations in 21 CFR part 203 and 21 CFR sections 205.3 and 205.50 (as amended in 64 FR 67762 and 67763).

FDA received one comment on this review; and FDA notes that portions of the PDMA have been stayed in connection with *RxUSA Wholesale, Inc., v. HHS*, 467 F. Supp.2d 285 (E.D.N.Y. 2006), aff'd, 2008 U.S. App. LEXIS 14661 (2d Cir. 2008)); and that the litigation itself has been administratively closed (with either party having the right to reopen) through June 30, 2011. FDA is certifying that it is not feasible for the agency to complete its review by December 4, 2010, and therefore is extending the completion date by one year.

Timetable:

Action	Date	FR Cite
Begin Review of Current Regulation	11/24/08	
End Review of Current Regulation	12/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AG14

355. PRODUCE SAFETY REGULATION

Legal Authority: 21 USC 342; 21 USC 371; 42 USC 264

Abstract: The Food and Drug Administration (FDA) has determined that enforceable standards (as opposed to voluntary recommendations) for the production and packing of fresh produce are necessary to ensure best practices are commonly adopted. FDA is proposing to promulgate regulations setting enforceable standards for fresh produce safety at the farm and packing house. The purpose of the proposed rule is to reduce the risk of illness associated with contaminated fresh produce. The proposed rule will be based on prevention-oriented public health principles and incorporate what we have learned in the past decade since the agency issued general good agricultural practice guidelines entitled ''Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables'' (GAPs Guide). The proposed rule also will reflect comments received on the agency's 1998 update of its GAPs guide and its July 2009 draft commodity specific guidances for tomatoes, leafy greens, and melons. Although the proposed rule will be based on recommendations that are included in the GAPs guide, FDA does not intend to make the entire guidance mandatory. FDA's proposed rule would, however, set out clear standards for implementation of modern preventive controls. The proposed rule also would emphasize the importance of environmental assessments to identify hazards and possible pathways of contamination and provide examples of risk reduction practices recognizing that operators must tailor their preventive controls to particular hazards and conditions affecting their operations. The requirements of the proposed rule would be scale appropriate and commensurate with the relative risks and complexity of individual operations. FDA intends to issue guidance after the proposed rule is finalized to assist industry in

complying with the requirements of the new regulation.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AG35

356. MODERNIZATION OF THE CURRENT FOOD GOOD MANUFACTURING PRACTICES REGULATION

Legal Authority: 21 USC 342; 21 USC 371; 42 USC 264

Abstract: The Food and Drug Administration (FDA) is proposing to amend its current good manufacturing practices (CGMP) regulations (21 CFR part 110) for manufacturing, packing, or holding human food. This proposed rule would require food facilities to address issues such as environmental pathogens, food allergens, mandatory employee training, and sanitation of food contact surfaces. The proposed rule also would require food facilities to develop and implement preventive control systems. FDA is taking this action to better address changes that have occurred in the food industry and protect public health.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AG36

Department of Health and Human Services (HHS)
Food and Drug Administration (FDA)

Completed Actions

357. STERILITY REQUIREMENT FOR AQUEOUS–BASED DRUG PRODUCTS FOR ORAL INHALATION (COMPLETION OF A SECTION 610 REVIEW)

Legal Authority: 21 USC 321; 21 USC 331; 21 USC 351 to 353; 21 USC 355; 21 USC 358; 21 USC 360e; 21 USC 371; 21 USC 374; 21 USC 375

Abstract: FDA is undertaking a review of 21 CFR 200.51, under section 610 of the Regulatory Flexibility Act. The purpose of this review is to determine whether this regulation on aqueous-based drug products for oral inhalation should be continued without change, or whether it should be amended or rescinded, consistent with the stated objectives of applicable statues, to minimize adverse impacts on a substantial number of small entities. FDA will consider, and is soliciting comments on the following: (1) The continued need for 21 CFR 200.51; (2) the nature of complaints or comments received concerning 21 CFR 200.51; (3) the complexity of 21 CFR 200.51; (4) the extent to which the regulation overlaps, duplicates, or conflicts with other Federal, State, or governmental rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by 21 CFR 200.51. No comments were required. FDA's review of these regulations concluded that they should be continued without change.

Timetable:

Action	Date	FR Cite
Begin Review	05/01/09	
End Review	05/31/10	

Regulatory Flexibility Analysis Required: No

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RIN: 0910–AG25

358. REGULATIONS RESTRICTING THE SALE AND DISTRIBUTION OF CIGARETTES AND SMOKELESS TOBACCO TO PROTECT CHILDREN AND ADOLESCENTS

Legal Authority: 21 USC 301 et seq, The Federal Food, Drug, and Cosmetic Act; PL 111–31, Family Smoking Prevention and Tobacco Control Act

Abstract: This rule establishes regulations restricting the sale and distribution of cigarettes and smokeless tobacco to children and adolescents, implementing section 102 of the Family Smoking Prevention and Tobacco Control Act (FSPTCA). FSPTCA sections 102 and 6(c)(1) require the Secretary to publish, within 270 days of enactment, a final rule regarding cigarettes and smokeless tobacco. This final rule must be identical, except for several changes identified in section 102(a)(2) of FSPTCA, to part 897 of the regulations promulgated by the Secretary of HHS in the August 28, 1996, issue of the Federal Register (61 FR 44396).

This final rule prohibits the sale of cigarettes and smokeless tobacco to individuals under the age of 18 and requires manufacturers, distributors, and retailers to comply with certain conditions regarding access to, and promotion of, these products. Among other things, the final rule requires retailers to verify a purchaser's age by photographic identification. It also prohibits, with limited exception, free samples and prohibits the sale of these products through vending machines and self-service displays except in facilities where individuals under the age of 18 are not present or permitted at any time. The rule also limits the advertising and labeling to which children and adolescents are exposed. The rule accomplishes this by generally restricting advertising to which children and adolescents are exposed to a black-and-white, text-only format. The rule also prohibits the sale or

distribution of brand-identified promotional, non-tobacco items such as hats and tee shirts. Furthermore, the rule prohibits sponsorship of sporting and other events, teams, and entries in a brand name of a tobacco product, but permits such sponsorship in a corporate name.

FDA also published in the same issue of the Federal Register an advance notice of proposed rulemaking requesting comments, data, research, or other information on the regulation of outdoor advertising of cigarettes and smokeless tobacco.

Timetable:

Action	Date	FR Cite
ANPRM	03/19/10	75 FR 13241
Final Rule	03/19/10	75 FR 13225
ANPRM Comment Period End	05/18/10	
Final Rule Effective	06/22/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 0910–AG33

359. OVER–THE–COUNTER HUMAN DRUGS; LABELING REQUIREMENTS (COMPLETION OF A SECTION 610 REVIEW)

Legal Authority: 5 USC 610

Abstract: Section 201.66 (21 CFR section 201.66) established a standardized format for the labeling of OTC drug products that included: (1) Specific headings and subheadings presented in a standardized order, (2) standardized graphical features such as headings in bold type and the use of ''bullet points'' to introduce key information, and (3) minimum standards for type size and spacing. FDA issued the final rule to improve labeling after considering comments submitted to the agency following the publication of the proposed regulation in 1997. In 1999, FDA published the final rule and stated that a standardized labeling format would significantly improve readability by familiarizing consumers with the types of information in OTC drug product labeling and the location of that information. In addition, a standardized appearance and standardized content, including various ''user-friendly'' visual cues, would help consumers locate and read important health and safety information and allow quick and effective product comparisons, thereby helping consumers to select the most appropriate product.

FDA undertook a review of section 201.66 under section 610 of the Regulatory Flexibility Act. The purpose of this review is to determine whether the regulation in section 201.66 should be continued without change, or whether it should be further amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize adverse impacts on a substantial number of small entities. FDA will consider, and is soliciting comments on the following: (1) The continued need for the regulation in section 201.66; (2) the nature of the complaints or comments received concerning the regulation in section 201.66; (3) the complexity of the regulations in section 201.66; (4) the extent to which the regulations in section 201.66 overlap, duplicate, or conflict with other Federal, State, or governmental rules; and (5) the degree to which technology, economic conditions, or other factors have changed for the products still subject to the labeling standard regulations in section 201.

No comments were received. FDA's review of these regulations concluded that they should be continued without change.

Timetable:

Action	Date	FR Cite
Begin Review of Current Regulation	08/03/09	
End Review of Current Regulation	05/27/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: M. Scott Furness, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO22, 10903 New Hamphsire Avenue, Silver Spring, MD 20993
Phone: 301 796–2090
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Email: micheal.furness@fda.hhs.gov

RIN: 0910–AG34

Department of Health and Human Services (HHS)
Centers for Medicare & Medicaid Services (CMS)

Proposed Rule Stage

360. HOME HEALTH AGENCY (HHA) CONDITIONS OF PARTICIPATION (COPS) (CMS–3819–P) (SECTION 610 REVIEW)

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395cc(a); 42 USC 1395hh; 42 USC 1395bb

Abstract: This proposed rule would revise the existing Conditions of Participation (CoPs) that Home Health Agencies (HHAs) must meet to participate in the Medicare program. The CoPs were last revised in 1989. The new requirements will focus on the actual care delivered to patients by HHAs, reflect an interdisciplinary view of patient care, allow HHAs greater flexibility in meeting quality standards, and eliminate unnecessary procedural requirements. These changes are an integral part of our efforts to achieve broad-based improvements and measurements of the quality of care furnished through federal programs while at the same time reducing procedural burdens on providers.

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 11005
NPRM Comment Period End	06/09/97	
Second NPRM	07/00/11	

Regulatory Flexibility Analysis Required: Undetermined

Agency Contact: Danielle Shearer, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Clinical Standards & Quality, Mailstop S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244

Phone: 410 786–6617
Email: danielle.shearer@cms.hhs.gov

RIN: 0938–AG81

361. REQUIREMENTS FOR LONG–TERM CARE FACILITIES: HOSPICE SERVICES (CMS–3140–F) (SECTION 610 REVIEW)

Legal Authority: 42 USC 1302; 42 USC 1395hh

Abstract: This rule establishes that in order to participate in the Medicare and Medicaid programs, long-term care facilities must have an agreement with hospice agencies when hospice care is provided in a long-term care facility. The rule also contains quality of care requirements.

Timetable:

Action	Date	FR Cite
NPRM	10/22/10	75 FR 65282
NPRM Comment Period End	12/21/10	
Final Action	10/00/13	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Patricia Brooks, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Office of Clinical Standards and Quality, Mailstop S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786–4561
Email: patricia.brooks@cms.hhs.gov

RIN: 0938–AP32

362. INFLUENZA VACCINATION STANDARD FOR CERTAIN MEDICARE PARTICIPATING PROVIDERS AND SUPPLIERS(CMS–3213–P)

Legal Authority: Social Security Act sec 1881, 1861, 1920, 1102, 1871, 1965

Abstract: This proposed rule would require certain Medicare providers and suppliers to offer all patients an annual influenza vaccination, unless medically inadvisable or if the patient declines vaccination. This proposed rule is intended to increase the number of patients receiving annual vaccination against seasonal influenza and to decrease the morbidity and mortality rate from influenza.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Lauren Oviatt, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786–4683
Email: lauren.oviatt@cms.hhs.gov

RIN: 0938–AP92

363. HOSPITAL CONDITIONS OF PARTICIPATION: REQUIREMENTS FOR HOSPITAL INPATIENT PSYCHIATRIC AND REHABILITATION UNITS EXCLUDED FROM THE PROSPECTIVE PAYMENT SYSTEM AND LTCH REQUIREMENTS (CMS–3177–P)

Legal Authority: 42 USC 1385 X; 42 USC 1396 d; 42 USC 1395 hh

Abstract: This proposed rule would transfer the existing process requirements for hospital inpatient psychiatric and rehabilitation units that are excluded from prospective payment systems to the hospital conditions of participation (CoPs) part of the Act. This would allow accrediting organizations to deem these units as part of their hospital accreditation process providing a timely and cost effective survey and certification process under the CoPs. In addition, this rule would propose long term care hospital requirements mandated by the Medicare, Medicaid and SCHIP Extension Act of 2007.

Timetable:

Action	Date	FR Cite
NPRM	05/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Capt. Katherine Berkhousen, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mailstop S3–02–01, Baltimore, MD 21244
Phone: 410 786–1154
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RIN: 0938–AP97

364. ● PROPOSED CHANGES TO THE HOSPITAL INPATIENT PROSPECTIVE PAYMENT SYSTEMS FOR ACUTE CARE HOSPITALS AND FY 2012 RATES AND TO THE LONG–TERM CARE HOSPITAL PPS AND RY 2012 RATES (CMS–1518–P)

Regulatory Plan: This entry is Seq. No. 55 in part II of this issue of the **Federal Register**.

RIN: 0938–AQ24

365. ● CHANGES TO THE HOSPITAL OUTPATIENT PROSPECTIVE PAYMENT SYSTEM AND AMBULATORY SURGICAL CENTER PAYMENT SYSTEM FOR CY 2012 (CMS–1525–P)

Regulatory Plan: This entry is Seq. No. 57 in part II of this issue of the **Federal Register**.

RIN: 0938–AQ26

366. ● CHANGES TO THE ESRD PROSPECTIVE PAYMENT SYSTEM FOR CY 2012 (CMS–1577–P)

Legal Authority: Sec 1881 of the Social Security Act

Abstract: This proposed rule would update the bundled payment system for End Stage Renal Disease (ESRD) facilities as required by the Medicare Improvments for Patients and Providers Act (MIPPA). These changes would be applicable to services furnished on or after January 1 annually.

Timetable:

Action	Date	FR Cite
NPRM	06/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Janet Samen, Director, Division of Chronic Care Management, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mailstop C5–05–27, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786–4533
Email: janet.samen@cms.hhs.gov

RIN: 0938–AQ27

367. ● FEDERAL FUNDING FOR MEDICAID ELIGIBILITY DETERMINATION AND ENROLLMENT ACTIVITIES (CMS–2346–P)

Legal Authority: PL 111–148, sec 1413

HHS—CMS **Proposed Rule Stage**

Abstract: The Affordable Care Act requires States' residents to apply, enroll, receive determinations, and participate in the State health subsidy programs known as ''the Exchange''. The ACA requires many changes to State eligibility and enrollment systems and each State is responsible for developing a secure, electronic interface allowing the exchange of data. Existing legacy eligibility systems are not able to implement the numerous requirements. This proposed rule is key to informing States about the higher rates that CMS will provide to help them update or build legacy eligibility systems that meet the ACA requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/08/10	75 FR 68583
NPRM Comment Period End	01/07/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Richard H. Friedman, Director, Division of State Systems, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop S3–18–13, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786–4451
Email: richard.friedman@cms.hhs.gov

RIN: 0938–AQ53

Department of Health and Human Services (HHS)
Centers for Medicare & Medicaid Services (CMS)

Final Rule Stage

368. REVISIONS TO PAYMENT POLICIES UNDER THE PHYSICIAN FEE SCHEDULE AND PART B FOR CY 2011 (CMS–1503–C)

Legal Authority: Social Security Act, sec 1102; Social Security Act, sec 1871

Abstract: This annual final rule revises payment polices under the physician fee schedule, as well as other policy changes to payment under Part B for CY 2011.

Timetable:

Action	Date	FR Cite
NPRM	07/13/10	75 FR 40040
NPRM Comment Period End	09/24/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Carol Bazell, Director, Division of Practitioner Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop C4–03–06, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786–6960
Email: carol.bazell@cms.hhs gov

RIN: 0938–AP79

369. CHANGES TO THE HOSPITAL OUTPATIENT PROSPECTIVE PAYMENT SYSTEM AND AMBULATORY SURGICAL CENTER PAYMENT SYSTEM FOR CY 2011 (CMS–1504–C)

Legal Authority: sec 1833 of the Social Security Act; BBA, BA, BIPA, MMA, PPACA

Abstract: This final rule revises the Medicare hospital outpatient prospective payment system to implement applicable statutory requirements and changes arising from our continuing experience with this system. The rule also describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule changes the Ambulatory Surgical Center Payment System list of services and rates.

Timetable:

Action	Date	FR Cite
NPRM	08/03/10	75 FR 46169
NPRM Comment Period End	08/31/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Alberta Dwivedi, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop C5–01–26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786–0763
Email: alberta.dwivedi@cms.hhs.gov

RIN: 0938–AP82

Department of Health and Human Services (HHS)
Centers for Medicare & Medicaid Services (CMS)

Completed Actions

370. REVISIONS TO THE MEDICARE ADVANTAGE AND MEDICARE PRESCRIPTION DRUG BENEFIT PROGRAMS FOR CONTRACT YEAR 2011 (CMS–4085–F)

Legal Authority: MMA 2003; MIPPA (title XVIII of the Social Security Act)

Abstract: This final rule makes revisions to the regulations governing the Medicare Advantage (MA) program (Part C) and prescription drug benefit program (Part D) based on our continued experience in the administration of the Part C and D programs. The revisions strengthen various program participation and exit requirements; strengthen beneficiary protections; ensure that plan offerings to beneficiaries include meaningful differences; improve plan payment rules and processes; improve data collection for oversight and quality assessment; implement new policy such as a Part D formulary policy; and clarify program policy.

Timetable:

Action	Date	FR Cite
NPRM	10/22/09	74 FR 54634
NPRM Comment Period End	12/07/09	
Final Action	04/15/10	75 FR 19678

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Alissa Deboy, Director, Division of Drug Plan Policy and Quality, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop

C1–26–26, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786–6041
Email: alissa.deboy@cms.hhs.gov

RIN: 0938–AP77

371. ELECTRONIC HEALTH RECORD (EHR) INCENTIVE PROGRAM (CMS–0033–F)

Legal Authority: PL 111–5 (The American Recovery and Reinvestment Act of 2009, Title IV of Division B, Medicare and Medicaid Health Information Technology)

Abstract: This rule would implement provisions of the American Recovery Act of 2009 (Recovery Act) that authorize incentive payments to eligible professionals (EPS) and eligible hospitals participating in the Medicare and Medicaid programs for adopting and becoming meaningful users of certified electronic health records (HER) technology. In accordance with the Recovery Act, the rule will establish maximum annual incentive amounts and include Medicare penalties for failing to meaningfully use EHRs beginning in 2015.

Timetable:

Action	Date	FR Cite
NPRM	01/13/10	75 FR 1843
NPRM Comment Period End	03/15/10	
Final Action	07/28/10	75 FR 44413

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Elizabeth S. Holland, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mailstop S2–26–17, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786–1309
Email: elizabeth.holland@cms.hhs.gov

RIN: 0938–AP78

372. PROSPECTIVE PAYMENT SYSTEMS FOR ACUTE CARE HOSPITALS AND THE LONG–TERM CARE HOSPITAL PROSPECTIVE PAYMENT SYSTEM

Legal Authority: Sec 1886(d) of the Social Security Act

Abstract: This rule updates the fiscal year (FY) 2011 hospital inpatient prospective payment systems (IPPS) and long-term care prospective payment system (LTCH PPS). This rule payments to hospitals for inpatient services that are contained in the Patient Protection and Affordable Care Act (the Affordable Care Act) as amended by the Health Care and Education Reconciliation Act of 2010 (HCERA) (collectively known as the Affordable Care Act). It would also specify statutorily required changes to the amounts and factors used to determine the rates for Medicare acute care hospital inpatient services for operating costs and capital-related costs, and for long-term care hospital costs.

Timetable:

Action	Date	FR Cite
NPRM	05/04/10	75 FR 23851
NPRM Comment Period End	06/18/10	
Second NPRM	06/02/10	75 FR 30917
Second NPRM Comment Period End	07/02/10	
Final Action	08/16/10	75 FR 50041

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Tiffany Swygert, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mailstop C4–25–11, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786–4642
Email: tiffany.swygert@cms.hhs.gov

RIN: 0938–AP80

373. ● HOSPITAL IPPS FOR ACUTE CARE HOSPITALS AND FISCAL YEAR 2010 RATES AND TO THE LONG–TERM CARE HOSPITAL PPS AND RATE YEAR 2010 RATES (CMS–1406–N)

Legal Authority: PL 111 148; PL 111–152

Abstract: This notice contains the final wage indices, hospital reclassifications, payment rates, impacts, and other related tables effective for the fiscal year (FY) 2010 hospital inpatient prospective payment systems (IPPS) and rate year 2010 long-term care hospital (LTCH) prospective payment system (PPS) . The rates, tables, and impacts included in this notice reflect changes required or resulting from the implementation of several provisions of the Patient Protection and Affordable Care Act as amended by the Health Care and Education Reconciliation Act of 2010. These provisions require the extension of the expiration date for certain geographic reclassifications and special exception wage indices through September 30, 2010, and certain market basket updates for the IPPS and LTCH PPS effective April 1, 2010.

Timetable:

Action	Date	FR Cite
Final Action	06/02/10	75 FR 31118

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Tzvi Hefter, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244
Phone: 410 786–4487
Email: tzvi.hefter@cms.hhs.gov

RIN: 0938–AQ03

[FR Doc. 2010–30444 Filed 12–17–10; 8:45 am]

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Federal Register

Monday,
December 20, 2010

Part IX

Department of Homeland Security

Semiannual Regulatory Agenda

DEPARTMENT OF HOMELAND SECURITY (DHS)

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Chs. I and II

[DHS Docket No. OGC-RP-04-001]

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, DHS.

ACTION: Semiannual regulatory agenda.

SUMMARY: This regulatory agenda is a semiannual summary of all current and projected rulemakings, existing regulations, and completed actions of the Department of Homeland Security (DHS) and its components. This agenda provides the public with information about DHS's regulatory activity. DHS expects that this information will enable the public to be more aware of, and effectively participate in, the Department's regulatory activity. DHS invites the public to submit comments on any aspect of this agenda.

FOR FURTHER INFORMATION CONTACT:

General

Please direct general comments and inquiries on the agenda to the Regulatory Affairs Law Division, U.S. Department of Homeland Security, Office of the General Counsel, 245 Murray Lane, Mail Stop 0485, Washington, DC 20528-0485.

Specific

Please direct specific comments and inquiries on individual regulatory actions identified in this agenda to the individual listed in the summary of the regulation as the point of contact for that regulation.

SUPPLEMENTARY INFORMATION: DHS provides this notice pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, Sep. 19, 1980) and Executive Order 12866 ''Regulatory Planning and Review'' (Sep. 30, 1993), which require the Department to publish a semiannual agenda of regulations. The regulatory agenda is a summary of all current and projected rulemakings, as well as actions completed since the publication of the last regulatory agenda for the Department. DHS's last semiannual regulatory agenda was published on April 26, 2010 at 75 FR 21806.

Beginning in fall 2007, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at www.reginfo.gov.

As part of the Unified Agenda, federal agencies are also required to prepare a Regulatory Plan of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal year. As in past years, for fall editions of the Unified Agenda, the entire Regulatory Plan and agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act, are printed in the **Federal Register**.

The Regulatory Flexibility Act (5 U.S.C. 602) requires federal agencies to publish their regulatory flexibility agenda in the **Federal Register**.A regulatory flexibility agenda shall contain, among other things, ''a brief description of the subject area of any rule . . . which is likely to have a significant economic impact on a substantial number of small entities.'' DHS's printed agenda entries include regulatory actions that are in the Department's regulatory flexibility agenda. Printing of these entries is limited to fields that contain information required by the agenda provisions of the Regulatory Flexibility Act. Additional information on these entries is available in the Unified Agenda published on the Internet.

The semiannual agenda of the Department conforms to the Unified Agenda format developed by the Regulatory Information Service Center.

Dated: September 10, 2010.

Christina E. McDonald,

Acting Associate General Counsel for Regulatory Affairs.

U.S. Citizenship and Immigration Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
374	Registration Requirement for Petitioners Seeking to File H-1B Petitions on Behalf of Aliens Subject to Numerical Limitations **(Reg Plan Seq No. 64)**	1615–AB71

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. Citizenship and Immigration Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
375	E-2 Nonimmigrant Status for Aliens in the Commonwealth of the Northern Mariana Islands With Long-Term Investor Status **(Reg Plan Seq No. 69)**	1615–AB75
376	Commonwealth of the Northern Mariana Islands Transitional Worker Classification **(Reg Plan Seq No. 70)**	1615–AB76

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

DHS

U.S. Citizenship and Immigration Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
377	U. S. Citizenship and Immigration Services Fee Schedule	1615–AB80

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
378	Numbering of Undocumented Barges	1625–AA14
379	Commercial Fishing Industry Vessels	1625–AA77
380	Inspection of Towing Vessels **(Reg Plan Seq No. 73)**	1625–AB06
381	Updates to Maritime Security **(Reg Plan Seq No. 75)**	1625–AB38

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
382	Standards for Living Organisms in Ships' Ballast Water Discharged in U.S. Waters **(Reg Plan Seq No. 76)**	1625–AA32
383	Passenger Weight and Inspected Vessel Stability Requirements	1625–AB20

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. Coast Guard—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
384	Claims Procedures Under the Oil Pollution Act of 1990 (USCG-2004-17697)	1625–AA03

U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identifier Number
385	Bulk Solid Hazardous Materials: Harmonization With the International Maritime Solid Bulk Cargoes (IMSBC) Code	1625–AB47

U.S. Customs and Border Protection—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
386	Importer Security Filing and Additional Carrier Requirements **(Reg Plan Seq No. 77)**	1651–AA70

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. Customs and Border Protection—Completed Actions

Sequence Number	Title	Regulation Identifier Number
387	Transportation of Certain Merchandise and Equipment Between Coastwise Points	1651–AA84

DHS

Transportation Security Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
388	Aircraft Repair Station Security **(Reg Plan Seq No. 85)**	1652–AA38

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Transportation Security Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
389	Modification of the Aviation Security Infrastructure Fee (ASIF) (Market Share)	1652–AA43

Department of Homeland Security (DHS) **Proposed Rule Stage**

U.S. Citizenship and Immigration Services (USCIS)

374. REGISTRATION REQUIREMENT FOR PETITIONERS SEEKING TO FILE H–1B PETITIONS ON BEHALF OF ALIENS SUBJECT TO NUMERICAL LIMITATIONS

Regulatory Plan: This entry is Seq. No. 64 in part II of this issue of the **Federal Register**.

RIN: 1615–AB71

Department of Homeland Security (DHS) **Final Rule Stage**

U.S. Citizenship and Immigration Services (USCIS)

375. E–2 NONIMMIGRANT STATUS FOR ALIENS IN THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS WITH LONG–TERM INVESTOR STATUS

Regulatory Plan: This entry is Seq. No. 69 in part II of this issue of the **Federal Register**.

RIN: 1615–AB75

376. COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS TRANSITIONAL WORKER CLASSIFICATION

Regulatory Plan: This entry is Seq. No. 70 in part II of this issue of the **Federal Register**.

RIN: 1615–AB76

Department of Homeland Security (DHS) **Completed Actions**

U.S. Citizenship and Immigration Services (USCIS)

377. U. S. CITIZENSHIP AND IMMIGRATION SERVICES FEE SCHEDULE

Legal Authority: 8 USC 1356(m)

Abstract: This rule will adjust the fee schedule for U.S. Citizenship and Immigration Services (USCIS) immigration and naturalization benefit applications and petitions, including nonimmigrant applications and visa petitions. These fees fund the cost of processing applications and petitions for immigration benefits and services, and USCIS' associated operating costs. USCIS is revising these fees because the current fee schedule does not adequately recover the full costs of services provided by USCIS. Without an adjustment of the fee schedule, USCIS cannot provide adequate capacity to process all applications and petitions in a timely and efficient manner. The fee review is undertaken pursuant to the requirements of the Chief Financial Officers Act of 1990 (CFO Act), 31 U.S.C. 901-03. The CFO Act requires each agency's chief financial officer (CFO) to ''review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect

DHS—USCIS **Completed Actions**

costs incurred by it in providing those services and things of value.'' Id. at 902(a)(8). This rule will reflect recommendations made by the DHS CFO and USCIS CFO, as required under the CFO Act.

Timetable:

Action	Date	FR Cite
NPRM	06/11/10	75 FR 33445
NPRM Comment Period End	07/26/10	
Final Rule	09/24/10	75 FR 58961
Final Rule Effective	11/23/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Timothy Rosado, Department of Homeland Security, U.S. Citizenship and Immigration Services, Suite 4018, 20 Massachusetts Avenue NW
Phone: 202 272–1969
Fax: 202 272–1970
Email: timothy.a.rosado@dhs.gov

RIN: 1615–AB80

Department of Homeland Security (DHS)
U.S. Coast Guard (USCG)

Proposed Rule Stage

378. NUMBERING OF UNDOCUMENTED BARGES

Legal Authority: 46 USC 12301

Abstract: Title 46 U.S.C. 12301, as amended by the Abandoned Barge Act of 1992, requires that all undocumented barges of more than 100 gross tons operating on the navigable waters of the United States be numbered. This rulemaking would establish a numbering system for these barges. The numbering of undocumented barges will allow identification of owners of barges found abandoned and help prevent future marine pollution. This rulemaking supports the Coast Guard's broad role and responsibility of maritime stewardship.

Timetable:

Action	Date	FR Cite
Request for Comments	10/18/94	59 FR 52646
Comment Period End	01/17/95	
ANPRM	07/06/98	63 FR 36384
ANPRM Comment Period End	11/03/98	
NPRM	01/11/01	66 FR 2385
NPRM Comment Period End	04/11/01	
NPRM Reopening of Comment Period	08/12/04	69 FR 49844
NPRM Comment Period End	11/10/04	
Supplemental NPRM	03/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Denise Harmon, Project Manager, Department of Homeland Security, U.S. Coast Guard, National Vessel Documentation Center, 792 T.J. Jackson Drive, Falling Waters, WV 25419
Phone: 304 271–2506

RIN: 1625–AA14

379. COMMERCIAL FISHING INDUSTRY VESSELS

Legal Authority: 46 USC 4502(a) to 4502(d); 46 USC 4505 and 4506; 46 USC 6104; 46 USC 10603; DHS Delegation No. 0170.1(92)

Abstract: This rulemaking would amend commercial fishing industry vessel requirements to enhance maritime safety. Commercial fishing remains one of the most dangerous industries in America. The Commercial Fishing Industry Vessel Safety Act of 1988 (''the Act,'' codified in 46 U.S.C. chapter 45) gives the Coast Guard regulatory authority to improve the safety of vessels operating in that industry. Although significant reductions in industry deaths were recorded after the Coast Guard issued its initial rules under the Act in 1991, we believe more deaths and serious injury can be avoided through compliance with new regulations in the following areas: vessel stability and watertight integrity, vessel maintenance and safety equipment including crew immersion suits, crew training and drills, and improved documentation of regulatory compliance.

Timetable:

Action	Date	FR Cite
ANPRM	03/31/08	73 FR 16815
ANPRM Comment Period End	12/15/08	
NPRM	01/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jack Kemerer, Project Manager, CG–5433, Department of Homeland Security, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593
Phone: 202 372–1249
Email: jack.a.kemerer@uscg.mil

RIN: 1625–AA77

380. INSPECTION OF TOWING VESSELS

Regulatory Plan: This entry is Seq. No. 73 in part II of this issue of the **Federal Register**.

RIN: 1625–AB06

381. UPDATES TO MARITIME SECURITY

Regulatory Plan: This entry is Seq. No. 75 in part II of this issue of the **Federal Register**.

RIN: 1625–AB38

Department of Homeland Security (DHS)
U.S. Coast Guard (USCG)

Final Rule Stage

382. STANDARDS FOR LIVING ORGANISMS IN SHIPS' BALLAST WATER DISCHARGED IN U.S. WATERS

Regulatory Plan: This entry is Seq. No. 76 in part II of this issue of the **Federal Register**.

RIN: 1625–AA32

383. PASSENGER WEIGHT AND INSPECTED VESSEL STABILITY REQUIREMENTS

Legal Authority: 33 USC 1321(j); 43 USC 1333; 46 USC 2103; 46 USC 2113; 46 USC 3205; 46 USC 3301; 46 USC 3306; 46 USC 3307; 46 USC 3703; 46 USC 5115; 46 USC 6101; 49 USC App 1804; EO 11735; EO 12234; DHS Delegation No 0170.1; PL 103–206, 107 Stat 2439

Abstract: The Coast Guard proposes developing a rule that addresses both the stability calculations and the environmental operating requirements for certain domestic passenger vessels. The proposed rule would address the outdated per-person weight averages that are currently used in stability calculations for certain domestic passenger vessels. In addition, the proposed rule would add environmental operating requirements for domestic passenger vessels that could be adversely affected by sudden inclement weather. This rulemaking would increase passenger safety by significantly reducing the risk of certain types of passenger vessels capsizing due to either passenger overloading or operating these vessels in hazardous weather conditions. This rulemaking would support the Coast Guard's broad role and responsibility of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	08/20/08	73 FR 49244
NPRM Comment Period End	11/18/08	
NPRM Comment Period Reopened	12/08/08	73 FR 74426
NPRM Comment Period End	02/06/09	
NPRM Comment Period Reopened	02/18/09	74 FR 7576
NPRM Comment Period End	03/20/09	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: William Peters, Program Manager, Office of Design and Engineering Standards, Systems Engineering Division (CG–5212), Department of Homeland Security, U.S. Coast Guard, 2100 2nd Street SW., STOP 7126, Washington, DC 20593–7126
Phone: 202 372–1371
Email: william.s.peters@uscg.mil

RIN: 1625–AB20

Department of Homeland Security (DHS)
U.S. Coast Guard (USCG)

Long-Term Actions

384. CLAIMS PROCEDURES UNDER THE OIL POLLUTION ACT OF 1990 (USCG–2004–17697)

Legal Authority: 33 USC 2713 and 2714

Abstract: This rulemaking implements section 1013 (Claims Procedures) and section 1014 (Designation of Source and Advertisement) of the Oil Pollution Act of 1990. An interim rule was published in 1992, and provides the basic requirements for the filing of claims for uncompensated removal costs or damages resulting from the discharge of oil, for the designation of the sources of the discharge, and for the advertisement of where claims are to be filed. The interim rule also includes the processing of natural resource damage (NRD) claims. The NRD claims, however, were not processed until September 25, 1997, when the Department of Justice issued an opinion that the Oil Spill Liability Trust Fund (OSLTF) is available, without further appropriation, to pay trustee NRD claims under the general claims provisions of the Oil Pollution Act (OPA) of 1990, 33 U.S.C. 2712(a)(4). This rulemaking supports the Coast Guard's broad role and responsibility of maritime stewardship.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/12/92	57 FR 36314
Correction	09/09/92	57 FR 41104
Interim Final Rule Comment Period End	12/10/92	
Supplemental NPRM	01/00/12	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Benjamin White, Project Manager, National Pollution Funds Center, Department of Homeland Security, U.S. Coast Guard, NPFC MS 7100, United States Coast Guard, 4200 Wilson Boulevard, Arlington, VA 20598–7100
Phone: 202 493–6863
Email: benjamin.h.white@uscg.mil

RIN: 1625–AA03

Department of Homeland Security (DHS)
U.S. Coast Guard (USCG)

Completed Actions

385. ● BULK SOLID HAZARDOUS MATERIALS: HARMONIZATION WITH THE INTERNATIONAL MARITIME SOLID BULK CARGOES (IMSBC) CODE

Legal Authority: 33 USC 1602; 46 USC 3306; 46 USC 5111; 49 USC 5103; EO 12234; DHS Delegation No. 0170.1

Abstract: This rulemaking proposed to align national regulations with the adoption of amendments to Chapter VI of the International Convention for Safety of Life at Sea (SOLAS), 1974, as amended, for foreign and domestic vessels' international trade. It also proposed to eliminate the need to maintain previously-issued Coast Guard special permits for the carriage of solid hazardous materials in bulk.

This project supports the Coast Guard Marine Safety and Environmental Protection program's goals to reduce crew member deaths and injuries on U.S. commercial vessels, to reduce the

amount of environmentally hazardous substances discharged into the nation's waterways, and to promote the Coast Guard's strategic goal of maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	06/17/10	75 FR 34574
Correction	06/18/10	75 FR 34682
NPRM Comment Period End	07/19/10	
Final Rule	10/19/10	75 FR 64585
Final Rule Effective	01/01/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Richard C. Bornhorst, Project Manager (CG–5223), Department of Homeland Security, U.S. Coast Guard, 2100 2nd Street SW., STOP 7126, Washington, DC 20593–7126
Phone: 202 372–1426
Fax: 202 372–1926
Email: richard.c.bornhorst@uscg.mil

RIN: 1625–AB47

Department of Homeland Security (DHS) — Final Rule Stage
U.S. Customs and Border Protection (USCBP)

386. IMPORTER SECURITY FILING AND ADDITIONAL CARRIER REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 77 in part II of this issue of the **Federal Register**.

RIN: 1651–AA70

Department of Homeland Security (DHS) — Completed Actions
U.S. Customs and Border Protection (USCBP)

387. TRANSPORTATION OF CERTAIN MERCHANDISE AND EQUIPMENT BETWEEN COASTWISE POINTS

Legal Authority: 46 USC 55102

Abstract: The Jones Act provides that only coastwise-qualified vessels may transport merchandise between coastwise points. During 2009, U.S. Customs and Border Protection proposed modifying previously-issued ruling letters that determined whether the transportation of certain articles and equipment by non-coastwise-qualified vessels between coastwise points was in violation of the Jones Act. Because any determination on this matter made by CBP would impact a broad range of regulated parties, and the scope of potential economic impact of any change in existing practice is unknown, CBP is issuing an advance notice of proposed rulemaking to solicit public comment.

Timetable:

Action	Date	FR Cite
Withdrawn	11/15/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Glen E. Vereb, Chief, Cargo Security, Carriers and Immigration Branch, Office of International Trade, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229
Phone: 202 325–0212

RIN: 1651–AA84

Department of Homeland Security (DHS) — Final Rule Stage
Transportation Security Administration (TSA)

388. AIRCRAFT REPAIR STATION SECURITY

Regulatory Plan: This entry is Seq. No. 85 in part II of this issue of the **Federal Register**.

RIN: 1652–AA38

Department of Homeland Security (DHS)
Transportation Security Administration (TSA)

Long-Term Actions

389. MODIFICATION OF THE AVIATION SECURITY INFRASTRUCTURE FEE (ASIF) (MARKET SHARE)

Legal Authority: 49 USC 44901; 49 USC 44940

Abstract: The Transportation Security Administration will propose a method for apportioning the Aviation Security Infrastructure Fee (ASIF) among air carriers. The ASIF is a fee imposed on air carriers and foreign air carriers to help pay the Government's costs of providing civil aviation security services.

Starting in fiscal year 2005, the Aviation and Transportation Security Act (ATSA) (Pub. L. 107-71; Nov. 19, 2001), codified at 49 U.S.C. 44940, authorizes TSA to change the methodology for imposing the ASIF on air carriers and foreign air carriers from a system based on their 2000 screening costs to a system based on market share or other appropriate measures.

On November 5, 2003, the Transportation Security Administration (TSA) published a notice requesting comment on possible changes in order to allow for open industry and public input. TSA sought comments on issues regarding how to impose the ASIF, and whether, when, and how often the ASIF should be adjusted. The comment period was extended on the notice for an additional 30 days, until February 5, 2004. TSA is developing a market share methodology and intends to seek public comments through issuance of a notice of proposed rulemaking.

Timetable:

Action	Date	FR Cite
Notice; Requesting Comment–Imposition of the Aviation Security Infrastructure Fee (ASIF)	11/05/03	68 FR 62613
Notice—Imposition of ASIF; Comment Period End	01/05/04	
Notice—Imposition of ASIF; Comment Period Extended	12/31/03	68 FR 75611
Notice—Imposition of ASIF; Extended Comment Period End	02/05/04	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Michael Gambone, Deputy Director, Office of Revenue, Department of Homeland Security, Transportation Security Administration, Office of Finance and Administration, TSA–14, HQ, W12–319, 601 South 12th Street, Arlington, VA 20598–6014
Phone: 571 227–1081
Fax: 571 227–2904
Email: michael.gambone@dhs.gov

Nicholas (Nick) Acheson, Sr. Economist, Regulatory Development and Economic Analysis, Department of Homeland Security, Transportation Security Administration, Office of Transportation Sector Network Management, TSA–28, HQ, E10–341N, 601 South 12th Street, Arlington, VA 20598–6028
Phone: 571 227–5474
Fax: 703 603–0302
Email: nicholas.acheson@dhs.gov

Linda L. Kent, Assistant Chief Counsel, Regulations and Security Standards Division, Department of Homeland Security, Transportation Security Administration, Office of the Chief Counsel, TSA–2, HQ, E12–126S, 601 South 12th Street, Arlington, VA 20598–6002
Phone: 571 227–2675
Fax: 571 227–1381
Email: linda.kent@dhs.gov

RIN: 1652–AA43

[FR Doc. 2010–30453 Filed 12–17–10; 8:45 am]

BILLING CODE 9110–9B–S

Federal Register

Monday,
December 20, 2010

Part X

Department of the Interior

Semiannual Regulatory Agenda

DEPARTMENT OF THE INTERIOR (DOI)

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Ch. I

30 CFR Chs. II and VII

36 CFR Ch. I

43 CFR Subtitle A, Chs. I and II

48 CFR Ch. 14

50 CFR Chs. I and IV

Semiannual Regulatory Agenda

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between fall 2010 and spring 2011. The Regulatory Flexibility Act and Executive Order 12866 require publication of the agenda.

ADDRESS: Unless otherwise indicated, all Agency Contacts are located at the Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: You should direct all comments and inquiries about these rules to the appropriate Agency Contact. You should direct general comments relating to the agenda to the Office of Executive Secretariat, Department of the Interior, at the address above or at 202-208-3181.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12866 that the Department publish an agenda of rules that we have issued or expect to issue and of currently effective rules that we have scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to publish an agenda in April and October of each year identifying rules that will have significant economic effects on a substantial number of small entities. We have specifically identified in the agenda rules that will have such effects.

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in both the online Unified Agenda and in part II of today's **Federal Register**. The Department's Statement of Regulatory Priorities is included in the plan.

John A. Strylowski,

Federal Register Liaison Officer.

United States Fish and Wildlife Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
390	National Wildlife Refuge System; Oil and Gas Regulations	1018–AX36

United States Fish and Wildlife Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
391	Endangered and Threatened Wildlife and Plants; Revision of Regulations That Establish Exemptions for Certain Antelope Species	1018–AX19

Bureau of Ocean Energy Management, Regulation, and Enforcement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
392	Revised Requirements for Well Plugging and Platform Decommissioning	1010–AD61

Department of the Interior (DOI) **Proposed Rule Stage**

United States Fish and Wildlife Service (FWS)

390. ● NATIONAL WILDLIFE REFUGE SYSTEM; OIL AND GAS REGULATIONS

Legal Authority: 16 USC 668dd–ee; 42 USC 7401 et seq; 16 USC 1131 to 1136; 40 CFR 51.300 to 51.309

Abstract: We propose regulations that ensure that all operators conducting oil or gas operations within a National Wildlife Refuge System unit do so in a manner as to prevent or minimize damage to National Wildlife Refuge System resources, visitor values, and management objectives. FWS does not intend these regulations to result in a taking of a property Interest, but rather to impose reasonable controls on operations that affect federally owned or controlled lands and/or waters.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Deb Rocque, Chief, Branch of Natural Resources and Conservation Planning, Department of the Interior, United States Fish and

DOI—FWS **Proposed Rule Stage**

Wildlife Service, 4401 N. Fairfax Drive, Arlington, VA 22203
Phone: 703 358–2106
Email: deb__rocque@fws.gov
RIN: 1018–AX36

Department of the Interior (DOI) — Completed Actions
United States Fish and Wildlife Service (FWS)

391. ENDANGERED AND THREATENED WILDLIFE AND PLANTS; REVISION OF REGULATIONS THAT ESTABLISH EXEMPTIONS FOR CERTAIN ANTELOPE SPECIES

Legal Authority: 16 USC 1531 et seq

Abstract: We are publishing a final rule to repeal section (h) from 50 CFR 17.21. This final rule is in response to a judicial decision that 50 CFR 17.21(h) was promulgated in contradiction to the Endangered Species Act.

Completed:

Reason	Date	FR Cite
Withdrawn	08/12/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Timothy Jon Van Norman
Phone: 703 358–2350
Fax: 703 358–2281
Email: tim__vannorman@fws.gov

RIN: 1018–AX19

BILLING CODE 4310—55—S

Department of the Interior (DOI) — Proposed Rule Stage
Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEM)

392. REVISED REQUIREMENTS FOR WELL PLUGGING AND PLATFORM DECOMMISSIONING

Legal Authority: 31 USC 9701; 43 USC 1334

Abstract: This rule would establish timely submission requirements for decommissioning and abandonment plans, and establish deadlines for decommissioning permits. The rule would also implement timeframes and clarify requirements for plugging and abandonment of idle wells and decommissioning idle facilities.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	
NPRM Comment Period End	04/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: William Hauser, Department of the Interior, Bureau of Ocean Energy Management, Regulation, and Enforcement, 381 Elden Street, Herndon, VA 20170
Phone: 703 787–1613
Fax: 703 787–1546
Email: william.hauser@boemre.gov

RIN: 1010–AD61

[FR Doc. 2010–30449 Filed 12–17–10; 8:45 am]

BILLING CODE 4310–MR–S

Federal Register

Monday,
December 20, 2010

Part XI

Department of Justice

Semiannual Regulatory Agenda

DEPARTMENT OF JUSTICE (DOJ)

DEPARTMENT OF JUSTICE

8 CFR Ch. V

21 CFR Ch. I

27 CFR Ch. II

28 CFR Ch. I, V

Regulatory Agenda

AGENCY: Department of Justice.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Justice is publishing its fall 2010 regulatory agenda pursuant to Executive Order 12866 ''Regulatory Planning and Review,'' 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. sections 601 to 612 (1988).

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Legal Policy, Department of Justice, Room 4252, 950 Pennsylvania Avenue NW., Washington, DC 20530, (202) 514-8059.

SUPPLEMENTARY INFORMATION: For this edition of the Department of Justice's regulatory agenda, the most important significant regulatory action and a Statement of Regulatory Priorities are included in The Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** that includes the Unified Agenda.

Beginning with the fall 2007 edition, the Internet has been the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at www.reginfo.gov in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Department of Justice's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years, including the Department of Justice's regulatory plan.

Dated: September 15, 2010

Christopher H. Schroeder,

Assistant Attorney General, Office of Legal Policy.

Civil Rights Division—Completed Actions

Sequence Number	Title	Regulation Identifier Number
393	Nondiscrimination on the Basis of Disability in Public Accommodations and Commercial Facilities **(Rulemaking Resulting From a Section 610 Review)**	1190–AA44
394	Nondiscrimination on the Basis of Disability in State and Local Government Services **(Rulemaking Resulting From a Section 610 Review)**	1190–AA46

Department of Justice (DOJ)
Civil Rights Division (CRT)

Completed Actions

393. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 42 USC 12186(b)

Abstract: In 1991, the Department of Justice published regulations to implement title III of the Americans With Disabilities Act of 1990 (ADA). Those regulations include the ADA Standards for Accessible Design, which establish requirements for the design and construction of accessible facilities that are consistent with the ADA Accessibility Guidelines (ADAAG) published by the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). In the time since the regulations became effective, the Department of Justice and the Access Board have each gathered a great deal of information regarding the implementation of the Standards. The Access Board began the process of revising ADAAG a number of years ago. It published new ADAAG in final form on July 23, 2004, after having published guidelines in proposed form in November 1999 and in draft final form in April 2002. In order to maintain consistency between ADAAG and the ADA Standards, the Department is reviewing its title III regulations and expects to propose, in one or more stages, to adopt revised ADA Standards consistent with the final revised ADAAG and to make related revisions to the Department's title III regulations. In addition to maintaining consistency between ADAAG and the Standards, the purpose of this review and these revisions is to more closely coordinate with voluntary standards; to clarify areas which, through inquiries and comments to the Department's technical assistance phone lines, have been shown to cause confusion; to reflect evolving technologies in areas affected by the Standards; and to comply with section 610 of the Regulatory Flexibility Act, which requires agencies once every 10 years to review rules that have a significant

economic impact upon a substantial number of small entities.

The first step in adopting revised Standards was an advance notice of proposed rulemaking that was published in the Federal Register on September 30, 2004, at 69 FR 58768, issued under both title II and title III. The Department believes that the advance notice simplified and clarified the preparation of the proposed rule. In addition to giving notice that the proposed rule will adopt revised ADA accessibility standards, the advance notice raised questions for public comment and proposed a framework for the regulatory analysis that accompanied the proposed rule.

The adoption of revised ADAAG will also serve to address changes to the ADA Standards previously proposed in RIN 1190-AA26, RIN 1190-AA38, RIN 1190-AA47, and RIN 1190-AA50, all of which have now been withdrawn from the Unified Agenda. These changes include technical specifications for facilities designed for use by children, accessibility standards for State and local government facilities, play areas, and recreation facilities, all of which had previously been published by the Access Board.

The timetable set forth below refers to the notice of proposed rulemaking that the Department issued as the second step of the above described title III rulemaking. This notice proposed to adopt revised ADA Standards for Accessible Design consistent with the minimum guidelines of the revised ADAAG, and initiated the review of the regulation in accordance with the requirements of section 610 of the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

Completed:

Reason	Date	FR Cite
Final Action	09/15/10	75 FR 56236
Final Action Effective	03/15/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: John L. Wodatch
Phone: 800 514–0301
TDD Phone: 800 514–0383
Fax: 202 307–1198

RIN: 1190–AA44

394. NONDISCRIMINATION ON THE BASIS OF DISABILITY IN STATE AND LOCAL GOVERNMENT SERVICES (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Legal Authority: 5 USC 301; 28 USC 509 to 510; 42 USC 12134; PL 101–336

Abstract: On July 26, 1991, the Department published its final rule implementing title II of the Americans With Disabilities Act (ADA). On November 16, 1999, the U.S. Architectural and Transportation Barriers Compliance Board (Access Board) issued its first comprehensive review of the ADA Accessibility Guidelines (ADAAG), which form the basis of the Department's ADA Standards for Accessible Design. The Access Board published an Availability of Draft Final Guidelines on April 2, 2002, and published the ADA Accessibility Guidelines in final form on July 23, 2004. The ADA (section 204(c)) requires the Department's standards to be consistent with the Access Board's guidelines. In order to maintain consistency between ADAAG and the Standards, the Department is reviewing its title II regulations and expects to propose, in one or more stages, to adopt revised standards consistent with new ADAAG. The Department will also, in one or more stages, review its title II regulations for purposes of section 610 of the Regulatory Flexibility Act and make related changes to its title II regulations.

In addition to the statutory requirement for the rule, the social and economic realities faced by Americans with disabilities dictate the need for the rule. Individuals with disabilities cannot participate in the social and economic activities of the Nation without being able to access the programs and services of State and local governments. Further, amending the Department's ADA regulations will improve the format and usability of the ADA Standards for Accessible Design; harmonize the differences between the ADA Standards and national consensus standards and model codes; update the ADA Standards to reflect technological developments that meet the needs of persons with disabilities; and coordinate future ADA Standards revisions with national standards and model code organizations. As a result, the overarching goal of improving access for persons with disabilities so that they can benefit from the goods, services, and activities provided to the public by covered entities will be met.

The first part of the rulemaking process was an advance notice of proposed rulemaking, published in the Federal Register on September 30, 2004, at 69 FR 58768, issued under both title II and title III. The Department believes the advance notice simplified and clarified the preparation of the proposed rule to follow. In addition to giving notice of the proposed rule that will adopt revised ADA accessibility standards, the advance notice raised questions for public comment and proposed a framework for the regulatory analysis that accompanied the proposed rule.

The adoption of revised ADA Standards consistent with revised ADAAG will also serve to address changes to the ADA Standards previously proposed under RIN 1190-AA26, RIN 1190-AA38, RIN 1190-AA47, and RIN 1190-AA50, all of which have now been withdrawn from the Unified Agenda. These changes include technical specifications for facilities designed for use by children, accessibility standards for State and local government facilities, play areas, and recreation facilities, all of which had previously been published by the Access Board.

The timetable set forth below refers to the notice of proposed rulemaking that the Department issued as the second step of the above-described title III rulemaking. This notice also proposed to eliminate the Uniform Federal Accessibility Standards (UFAS) as an alternative to the ADA Standards for Accessible Design.

Completed:

Reason	Date	FR Cite
Final Action	09/15/10	75 FR 56164
Final Action Effective	03/15/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: John L. Wodatch
Phone: 800 514–0301
TDD Phone: 800 514–0383
Fax: 202 307–1198

RIN: 1190–AA46

[FR Doc. 2010–30440 Filed 12–17–10; 8:45 am]

BILLING CODE 4410–BP–S

Federal Register

Monday,
December 20, 2010

Part XII

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR (DOL)

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Internet has become the means for disseminating the entirety of the Department of Labor's semiannual regulatory agenda. However, the Regulatory Flexibility Act requires publication of a regulatory flexibility agenda in the **Federal Register**. This **Federal Register** Notice contains the regulatory flexibility agenda. In addition, the Department's Regulatory Plan, a subset of the Department's regulatory agenda, is being published in the **Federal Register**. The Regulatory Plan contains a statement of the Department's regulatory priorities and the regulatory actions the Department wants to highlight as its most important and significant.

FOR FURTHER INFORMATION CONTACT: Kathleen Franks, Director, Office of Regulatory Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-2312, Washington, DC 20210; (202) 693-5959.

NOTE: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12866 requires the semiannual publication of an agenda of regulations that contains a listing of all the regulations the Department of Labor expects to have under active consideration for promulgation, proposal, or review during the coming one-year period. The entirety of the Department's semiannual agenda is available online at www.reginfo.gov.

The Regulatory Flexibility Act (5 U.S.C. 602) requires DOL to publish in the **Federal Register** a regulatory flexibility agenda. The Department's Regulatory Flexibility Agenda published with this notice, includes only those rules on its semiannual agenda that are likely to have a significant economic impact on a substantial number of small entities; and those rules identified for periodic review in keeping with the requirements of section 610 of the Regulatory Flexibility Act. Thus, the regulatory flexibility agenda is a subset of the Department's semiannual regulatory agenda. At this time, there is only one item, listed below, on the Department's Regulatory Flexibility Agenda.

Occupational Safety and Health Administration

Bloodborne Pathogens (RIN 1218-AC34)

In addition, the Department's Regulatory Plan, also a subset of the Department's regulatory agenda, is being published in the **Federal Register**. The Regulatory Plan contains a statement of the Department's regulatory priorities and the regulatory actions the Department wants to highlight as its most important and significant.

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved, and are invited to participate in and comment on the review or development of the regulations listed on the Department's agenda.

Hilda L. Solis,

Secretary of Labor.

Office of Labor-Management Standards—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
395	Persuader Agreements: Employer and Labor Relations Consultant Reporting Under the LMRDA **(Reg Plan Seq No. 95)**	1245–AA03
396	Persuader Agreements: Consultant Form LM-21 Receipts and Disbursements Report	1245–AA05

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Office of Labor-Management Standards—Completed Actions

Sequence Number	Title	Regulation Identifier Number
397	Notification of Employee Rights Under Federal Labor Laws	1245–AA00
398	Form T-1: Reports by Labor Organizations on Related Organizations; Reporting by Public Sector Intermediate Unions	1245–AA02

Employee Benefits Security Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
399	Improved Fee Disclosure for Pension Plan Participants	1210–AB07

DOL

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
400	Occupational Exposure to Beryllium	1218–AB76
401	Occupational Exposure to Food Flavorings Containing Diacetyl and Diacetyl Substitutes	1218–AC33
402	Bloodborne Pathogens **(Section 610 Review)**	1218–AC34

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
403	Occupational Exposure to Crystalline Silica **(Reg Plan Seq No. 110)**	1218–AB70

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
404	Confined Spaces in Construction	1218–AB47
405	Electric Power Transmission and Distribution; Electrical Protective Equipment	1218–AB67

Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
406	Cranes and Derricks in Construction	1218–AC01
407	Methylene Chloride **(Completion of a Section 610 Review)**	1218–AC23

Department of Labor (DOL)
Office of Labor—Management Standards (OLMS)

Proposed Rule Stage

395. PERSUADER AGREEMENTS: EMPLOYER AND LABOR RELATIONS CONSULTANT REPORTING UNDER THE LMRDA

Regulatory Plan: This entry is Seq. No. 95 in part II of this issue of the **Federal Register**.

RIN: 1245–AA03

396. ● PERSUADER AGREEMENTS: CONSULTANT FORM LM–21 RECEIPTS AND DISBURSEMENTS REPORT

Legal Authority: 29 USC 433 and 438

Abstract: The Department intends to publish a notice and comment rulemaking seeking consideration of the Form LM-21, Receipts and Disbursements Report, which is required pursuant to section 203(b) of the Labor-Management Reporting and Disclosure Act (LMRDA). The rulemaking will propose mandatory electronic filing for Form LM-21 filers, and it will review the layout of the Form LM-21 and its instructions, including the detail required to be reported.

Timetable:

Action	Date	FR Cite
NPRM	07/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor–Management Standards, Department of Labor, Office of Labor–Management Standards, Room N–5609, FP Building, 200 Constitution Avenue NW., Washington, DC 20210
Phone: 202 693–1254
Fax: 202 693–1340
Email: davis.andrew@dol.gov

RIN: 1245–AA05

Department of Labor (DOL)
Office of Labor—Management Standards (OLMS)

Completed Actions

397. NOTIFICATION OF EMPLOYEE RIGHTS UNDER FEDERAL LABOR LAWS

Legal Authority: EO 13496

Abstract: Pursuant to Executive Order 13496 of January 30, 2009, the Department of Labor proposes to prescribe the size, form, and content of the notice to be posted by a contractor under paragraph 1 of the contract clause described in section 2 of the order. Such notice shall describe the rights of employees under Federal labor laws, consistent with the policy set forth in section 1 of the order.

Timetable:

Action	Date	FR Cite
NPRM	08/03/09	74 FR 38488
NPRM Comment Period End	09/02/09	
Final Action	05/20/10	75 FR 28368
Final Action Effective	06/21/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor–Management Standards, Department of Labor, Office of Labor–Management Standards, Room N–5609, FP Building, 200 Constitution Avenue NW., Washington, DC 20210
Phone: 202 693–1254
Fax: 202 693–1340
Email: davis.andrew@dol.gov

RIN: 1245–AA00

398. FORM T–1: REPORTS BY LABOR ORGANIZATIONS ON RELATED ORGANIZATIONS; REPORTING BY PUBLIC SECTOR INTERMEDIATE UNIONS

Legal Authority: 29 USC 438

Abstract: On October 2, 2008, the Department published a final rule establishing a Form T-1, Trust Annual Report, which certain labor organizations must file to disclose financial information regarding trusts in which they are interested pursuant to the Labor-Management Reporting and Disclosure Act (LMRDA). This rulemaking would propose to rescind the Form T-1. It would instead propose that filers of Form LM-2, Labor Organization Annual Report, report on their wholly owned, wholly controlled and wholly financed organizations (''subsidiary organizations'') on their Form LM-2 report. Additionally, the rulemaking would propose to change an interpretation of the LMRDA regarding intermediate bodies. The proposed revised interpretation would state that intermediate bodies are covered only if they are themselves composed, in whole or part, of private sector affiliates.

Timetable:

Action	Date	FR Cite
NPRM	02/02/10	75 FR 5456
NPRM Comment Period End	04/05/10	
Final Action	12/01/10	75 FR 74936
Final Action Effective	01/03/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Andrew R. Davis, Chief, Division of Interpretations and Standards, Office of Labor–Management Standards, Department of Labor, Office of Labor–Management Standards, Room N–5609, FP Building, 200 Constitution Avenue NW., Washington, DC 20210
Phone: 202 693–1254
Fax: 202 693–1340
Email: davis.andrew@dol.gov

RIN: 1245–AA02

Department of Labor (DOL)
Employee Benefits Security Administration (EBSA)

Completed Actions

399. IMPROVED FEE DISCLOSURE FOR PENSION PLAN PARTICIPANTS

Legal Authority: 29 USC 1104; 29 USC 1135

Abstract: This rulemaking will ensure that the participants and beneficiaries in participant-directed individual account plans are provided the information they need, including information about fees and expenses, to make informed investment decisions. The rulemaking may include amendments to the regulation governing ERISA section 404(c) plans (29 CFR 2550.404c-1). The rulemaking is needed to clarify and improve the information currently required to be furnished to participants and beneficiaries.

Timetable:

Action	Date	FR Cite
Request for Information	04/25/07	72 FR 20457
Comment Period End	07/24/07	
NPRM	07/23/08	73 FR 43014
NPRM Comment Period End	09/08/08	
Final Action	10/20/10	75 FR 64910

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Michael Del Conte, Pension Law Specialist, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N–5655, Washington, DC 20210
Phone: 202 693–8500
Fax: 202 219–7291

RIN: 1210–AB07

Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA)

Prerule Stage

400. OCCUPATIONAL EXPOSURE TO BERYLLIUM

Legal Authority: 29 USC 655(b); 29 USC 657

Abstract: In 1999 and 2001, OSHA was petitioned to issue an emergency temporary standard by the United Steel Workers (formerly the Paper Allied-Industrial, Chemical, and Energy Workers Union), Public Citizen Health Research Group, and others. The Agency denied the petitions but stated its intent to begin data gathering to collect needed information on beryllium's toxicity, risks, and patterns of usage.

On November 26, 2002, OSHA published a Request for Information

(RFI) (67 FR 70707) to solicit information pertinent to occupational exposure to beryllium including: current exposures to beryllium; the relationship between exposure to beryllium and the development of adverse health effects; exposure assessment and monitoring methods; exposure control methods; and medical surveillance. In addition, the Agency conducted field surveys of selected work sites to assess current exposures and control methods being used to reduce employee exposures to beryllium. OSHA convened a Small Business Advocacy Review Panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and completed the SBREFA Report in January 2008. OSHA is currently conducting a scientific peer review of its draft risk assessment, which is scheduled to be completed in November 2010. Additionally, an economic peer review is scheduled to be completed in May 2011.

Timetable:

Action	Date	FR Cite
Request for Information	11/26/02	67 FR 70707
SBREFA Report Completed	01/23/08	
Initiated Peer Review of Health Effects and Risk Assessment	03/22/10	
Complete Peer Review	11/19/10	
Complete Economic Peer Review	05/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dorothy Dougherty, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210
Phone: 202 693–1950
Fax: 202 693–1678
Email: dougherty.dorothy@dol.gov

RIN: 1218–AB76

401. OCCUPATIONAL EXPOSURE TO FOOD FLAVORINGS CONTAINING DIACETYL AND DIACETYL SUBSTITUTES

Legal Authority: 29 USC 655(b); 29 USC 657

Abstract: On July 26, 2006, the United Food and Commercial Workers International Union (UFCW) and the International Brotherhood of Teamsters (IBT) petitioned DOL for an Emergency Temporary Standard (ETS) for all employees exposed to diacetyl, a major component in artificial butter flavoring. Diacetyl and a number of other volatile organic compounds are used to manufacture artificial butter food flavorings. These food flavorings are used by various food manufacturers in a multitude of food products including microwave popcorn, certain bakery goods, and some snack foods. OSHA denied the petition on September 25, 2007, but has initiated 6(b) rulemaking.

Evidence from NIOSH and other sources indicated that employee exposure to diacetyl and food flavorings containing diacetyl is associated with bronchiolitis obliterans, a debilitating and potentially fatal disease of the small airways in the lung. Severe obstructive airway disease has been observed in the microwave popcorn industry and in food flavoring manufacturing plants. Experimental evidence has shown that inhalation exposure to artificial butter flavoring vapors and diacetyl damaged tissue lining the nose and airways of rats and mice. OSHA published an Advanced Notice of Proposed Rulemaking (ANPRM) on January 21, 2009, but withdrew the ANPRM on March 17, 2009, in order to facilitate timely development of a standard. The Agency subsequently initiated review of the draft proposed standard in accordance with the Small Business Regulatory Enforcement Fairness Act (SBREFA). The SBREFA Panel Report was completed on July 2, 2009.

The occurrence of severe lung disease among workers in workplaces where diacetyl is manufactured and used has led some manufacturers to reduce or eliminate the amount of diacetyl in some kinds of flavorings, foods, and beverages. They have begun to use substitutes such as 2,3-pentanedione. These substitutes, some of which are structurally similar to diacetyl, have not been well-studied and there is growing concern that they also pose health risks for workers. Research on 2,3-pentanedione conducted by NIOSH and NIEHS suggests that, in rats, 2,3-pentanedione causes airway damage similar to that produced by diacetyl.

NIOSH is currently developing a criteria document on occupational exposure to diacetyl. The criteria document will also address exposure to 2,3-pentanedione. It will include an assessment of the effects of exposure as well as quantitative risk assessment. OSHA intends to rely on these portions of the criteria document for the health effects analysis and quantitative risk assessment for the Agency's diacetyl rulemaking. NIOSH will initiate public peer review of the criteria document in April, 2011.

Timetable:

Action	Date	FR Cite
Stakeholder Meeting	10/17/07	72 FR 54619
ANPRM	01/21/09	74 FR 3937
ANPRM Withdrawn	03/17/09	74 FR 11329
ANPRM Comment Period End	04/21/09	
Completed SBREFA Report	07/02/09	
Initiate Peer Review of Health Effects and Risk Assessment	04/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dorothy Dougherty, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210
Phone: 202 693–1950
Fax: 202 693–1678
Email: dougherty.dorothy@dol.gov

RIN: 1218–AC33

402. BLOODBORNE PATHOGENS (SECTION 610 REVIEW)

Legal Authority: 5 USC 533; 5 USC 610; 29 USC 655(b)

Abstract: OSHA will undertake a review of the Bloodborne Pathogen Standard (29 CFR 1910.1030) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for the rule; whether the rule overlaps, duplicates, or conflicts with other Federal, State or local regulations; and the degree to which technology, economic conditions, or other factors may have changed since the rule was evaluated.

Timetable:

Action	Date	FR Cite
Begin Review	10/22/09	

DOL—OSHA **Prerule Stage**

Action	Date	FR Cite
Request for Comments Published	05/14/10	75 FR 27237
Comment Period End	08/12/10	
Analyze Comments	05/00/11	

Regulatory Flexibility Analysis Required: No

Agency Contact: John Smith, Directorate of Evaluation and Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3641, Washington, DC 20210
Phone: 202 693–2400
Fax: 202 693–1641
Email: smith.john@dol.gov

RIN: 1218–AC34

Department of Labor (DOL) **Proposed Rule Stage**
Occupational Safety and Health Administration (OSHA)

403. OCCUPATIONAL EXPOSURE TO CRYSTALLINE SILICA

Regulatory Plan: This entry is Seq. No. 110 in part II of this issue of the **Federal Register**.

RIN: 1218–AB70

Department of Labor (DOL) **Final Rule Stage**
Occupational Safety and Health Administration (OSHA)

404. CONFINED SPACES IN CONSTRUCTION

Legal Authority: 29 USC 655(b); 40 USC 333

Abstract: In January 1993, OSHA issued a general industry rule to protect employees who enter confined spaces (29 CFR 1910.146). This standard does not apply to the construction industry because of differences in the nature of the worksite in the construction industry. In discussions with the United Steel Workers of America on a settlement agreement for the general industry standard, OSHA agreed to issue a proposed rule to extend confined-space protection to construction workers appropriate to their work environment.

Timetable:

Action	Date	FR Cite
SBREFA Panel Report	11/24/03	
NPRM	11/28/07	72 FR 67351
NPRM Comment Period End	01/28/08	
NPRM Comment Period Extended	02/28/08	73 FR 3893
Public Hearing	07/22/08	
Close Record	10/23/08	
Final Action	11/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Ben Bare, Acting Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3468, Washington, DC 20210
Phone: 202 693–2020
Fax: 202 693–1689

RIN: 1218–AB47

405. ELECTRIC POWER TRANSMISSION AND DISTRIBUTION; ELECTRICAL PROTECTIVE EQUIPMENT

Legal Authority: 29 USC 655(b); 40 USC 333

Abstract: Electrical hazards are a major cause of occupational death in the United States. The annual fatality rate for power line workers is about 50 deaths per 100,000 employees. The construction industry standard addressing the safety of these workers during the construction of electric power transmission and distribution lines is over 35 years old. OSHA has developed a revision of this standard that will prevent many of these fatalities, add flexibility to the standard, and update and streamline the standard. OSHA also intends to amend the corresponding standard for general industry so that requirements for work performed during the maintenance of electric power transmission and distribution installations are the same as those for similar work in construction. In addition, OSHA will be revising a few miscellaneous general industry requirements primarily affecting electric transmission and distribution work, including provisions on electrical protective equipment and foot protection. This rulemaking also addresses fall protection in aerial lifts for work on power generation, transmission, and distribution installations. OSHA published an NPRM on June 15, 2005. A public hearing was held from March 6 through March 14 in 2006. OSHA reopened the record to gather additional information on minimum approach distances for specific ranges of voltages. The record was reopened a second time to allow more time for comment and to gather information on minimum approach distances for all voltages and on the newly revised Institute of Electrical and Electronics Engineers consensus standard. Additionally, a public hearing was held on October 28, 2009. The posthearing comment period ended in February 2010. OSHA anticipates publishing a final rule in May 2011.

Timetable:

Action	Date	FR Cite
SBREFA Report	06/30/03	
NPRM	06/15/05	70 FR 34821
NPRM Comment Period End	10/13/05	
Comment Period Extended to 01/11/2006	10/12/05	70 FR 59290
Public Hearing To Be Held 03/06/2006	10/12/05	70 FR 59290
Posthearing Comment Period End	07/14/06	
Reopen Record	10/22/08	73 FR 62942
Comment Period End	11/21/08	

DOL—OSHA

Final Rule Stage

Action	Date	FR Cite
Close Record	11/21/08	
Second Reopening Record	09/14/09	74 FR 46958
Comment Period End	10/15/09	
Public Hearings	10/28/09	
Posthearing Comment Period End	02/10/10	
Final Rule	05/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dorothy Dougherty, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210
Phone: 202 693–1950
Fax: 202 693–1678
Email: dougherty.dorothy@dol.gov

RIN: 1218–AB67

Department of Labor (DOL)
Occupational Safety and Health Administration (OSHA)

Completed Actions

406. CRANES AND DERRICKS IN CONSTRUCTION

Legal Authority: 29 USC 651(b); 29 USC 655(b); 40 USC 333

Abstract: A number of industry stakeholders asked OSHA to update the cranes and derricks portion of subpart N (29 CFR 1926.550), specifically requesting that negotiated rulemaking be used.

In 2002, OSHA published a notice of intent to establish a negotiated rulemaking committee. A year later, in 2003, committee members were announced and the Cranes and Derricks Negotiated Rulemaking Committee was established and held its first meeting. In July 2004, the committee reached consensus on all issues resulting in a final consensus document.

A Notice of Proposed Rulemaking (NPRM) was published on October 9, 2008. The comment period for the NPRM was extended and closed January 22, 2009. A public hearing was held on March 20, 2009. The final rule was posted and made public on July 28, 2010, and published in the Federal Register on August 9, 2010.

Timetable:

Action	Date	FR Cite
Notice of Intent To Establish Negotiated Rulemaking	07/16/02	67 FR 46612
Comment Period End	09/16/02	
Request for Comments on Proposed Committee Members	02/27/03	68 FR 9036
Request for Comments Period End	03/31/03	68 FR 9036
Established Negotiated Rulemaking Committee	06/12/03	68 FR 35172
Rulemaking Negotiations Completed	07/30/04	
SBREFA Report	10/17/06	
NPRM	10/09/08	73 FR 59714
NPRM Comment Period Extended	12/02/08	73 FR 73197
NPRM Comment Period End	01/22/09	
Public Hearing	03/20/09	
Close Record	06/18/09	
Final Rule	08/09/10	75 FR 47906

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Ben Bare, Acting Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3468, Washington, DC 20210
Phone: 202 693–2020
Fax: 202 693–1689

RIN: 1218–AC01

407. METHYLENE CHLORIDE (COMPLETION OF A SECTION 610 REVIEW)

Legal Authority: 5 USC 553; 5 USC 610; 29 USC 655(b)

Abstract: OSHA undertook a review of the Methylene Chloride Standard (29 CFR 1910.1052) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review considered the continued need for the rule; whether the rule overlaps, duplicates, or conflicts with other Federal, State, or local regulations; and the degree to which technology, economic conditions, or other factors may have changed since the rule was evaluated.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/06	
Request for Comments	07/10/07	72 FR 37501
Comment Period End	10/09/07	
Reopen Comment Period	01/08/08	73 FR 1299
Comment Period End	03/10/08	
End Review	05/05/10	75 FR 24509

Regulatory Flexibility Analysis Required: No

Agency Contact: John Smith, Directorate of Evaluation and Analysis, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3641, Washington, DC 20210
Phone: 202 693–2400
Fax: 202 693–1641
Email: smith.john@dol.gov

RIN: 1218–AC23

[FR Doc. 2010–30442 Filed 12–17–10; 8:45 am]

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Federal Register

Monday,
December 20, 2010

Part XIII

Department of Transportation

Semiannual Regulatory Agenda

DEPARTMENT OF TRANSPORTATION (DOT)

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chs. I-III

23 CFR Chs. I-III

33 CFR Chs. I and IV

46 CFR Chs. I-III

48 CFR Ch. 12

49 CFR Subtitle A, Chs. I-VI and Chs. X-XII

OST Docket 99-5129

Department Regulatory Agenda; Semiannual Summary

AGENCY: Office of the Secretary, DOT.

ACTION: Semiannual regulatory agenda.

SUMMARY: The regulatory agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of and allow it to more effectively participate in the Department's regulatory activity. The public is also invited to submit comments on any aspect of this agenda.

FOR FURTHER INFORMATION CONTACT:

General

You should direct all comments and inquiries on the agenda in general to Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; (202) 366-4723.

Specific

You should direct all comments and inquiries on particular items in the agenda to the individual listed for the regulation or the general rulemaking contact person for the operating administration in Appendix B. Individuals who use a telecommunications device for the deaf (TDD) may call (202) 755-7687.

Table of Contents

SUPPLEMENTARY INFORMATION:

Background

Improvement of our regulations is a prime goal of the Department of Transportation (Department or DOT). Our regulations should be clear, simple, timely, fair, reasonable, and necessary. They should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed. To view additional information about the Department of Transportation's regulatory activities online, go to http://regs.dot.gov. Among other things, this website provides a report, updated monthly, on the status of the DOT significant rulemakings listed in the semi-annual Agenda.

To help the Department achieve these goals and in accordance with Executive Order 12866 ''Regulatory Planning and Review'' (58 FR 51735; October 4, 1993) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual regulatory agenda. It summarizes all current and projected rulemaking, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding 12 months or such longer period as may be anticipated or for which action has been completed since the last agenda.

The agendas are based on reports submitted by the offices initiating the rulemaking and are reviewed by the Department Regulations Council. The Department's last agenda was published in the **Federal Register** on April 26, 2010 (75 FR 21840). The next one is scheduled for publication in the **Federal Register** in spring 2011.

The Internet is the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at www.reginfo.gov, in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), DOT's printed agenda entries include only:

1. The Agency's agenda preamble;
2. Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and
3. Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. These elements are: Sequence Number; Title; Section 610 Review, if applicable; Legal Authority; Abstract; Timetable; Regulatory Flexibility Analysis Required; Agency Contact; and Regulation Identifier Number (RIN). Additional information (for detailed list see section heading ''Explanation of Information on the Agenda'') on these entries is available in the Unified Agenda published on the Internet.

Significant/Priority Rulemakings

The agenda covers all rules and regulations of the Department. We have classified rules as a DOT agency priority in the agenda if they are, essentially, very costly, controversial, or of substantial public interest under our Regulatory Policies and Procedures. All DOT agency priority rulemaking documents are subject to review by the Secretary of Transportation. If the Office of Management and Budget (OMB) decides a rule is subject to its review under Executive Order 12866, we have classified it as significant in the agenda.

Explanation of Information on the Agenda

The format for this agenda is required by a fall 2010 memorandum from the Office of Management and Budget.

DOT

First, the agenda is divided by initiating offices. Then, the agenda is divided into five categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, (4) long-term actions, and (5) completed actions. For each entry, the agenda provides the following information: (1) Its ''significance''; (2) a short, descriptive title; (3) its legal basis; (4) the related regulatory citation in the Code of Federal Regulations; (5) any legal deadline and, if so, for what action (e.g., NPRM, final rule); (6) an abstract; (7) a timetable, including the earliest expected date for a decision on whether to take the action; (8) whether the rulemaking will affect small entities and/or levels of government and, if so, which categories; (9) whether a Regulatory Flexibility Act (RFA) analysis is required (for rules that would have a significant economic impact on a substantial number of small entities); (10) a listing of any analyses an office will prepare or has prepared for the action (With minor exceptions, DOT requires an economic analysis for all its rulemakings.); (11) an agency contact office or official who can provide further information; (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the agenda and facilitate tracing further action on the issue; (13) whether the action is subject to the Unfunded Mandates Reform Act; (14) whether the action is subject to the Energy Act; and (15) whether the action is major under the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act. If there is information that does not fit in the other categories, it will be included under a separate heading entitled ''Additional Information.''

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, we only include the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations; we do not list individual regulations.

In the ''Timetable'' column, we use abbreviations to indicate the particular documents being considered. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, and NPRM for Notice of Proposed Rulemaking. Listing a future date in this column does not mean we have made a decision to issue a document; it is the earliest date on which we expect to make a decision on whether to issue it. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this agenda could result in a decision not to take regulatory action, or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the agenda for the first time.

Request for Comments

General

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as make the agenda easier to use. We would like you, the public, to make suggestions or comments on how the agenda could be further improved.

Reviews

We also seek your suggestions on which of our existing regulations you believe need to be reviewed to determine whether they should be revised or revoked. We particularly draw your attention to the Department's review plan in Appendix D.

Regulatory Flexibility Act

The Department is especially interested in obtaining information on requirements that have a ''significant economic impact on a substantial number of small entities'' and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please submit them to us, along with your explanation of why they should be reviewed.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that we have targeted for review under section 610 of the Act. The phrase (Section 610 Review) appears at the end of the title for these reviews. Please see Appendix D for the Department's section 610 review plans.

Consultation With State, Local, and Tribal Governments

Executive Orders 13132 and 13175 require us to develop an accountable process to ensure ''meaningful and timely input'' by State, local, and tribal officials in the development of regulatory policies that have federalism or tribal implications. These policies are defined in the Executive Orders to include regulations that have ''substantial direct effects'' on States or Indian tribes, on the relationship between the Federal Government and them, or on the distribution of power and responsibilities between the Federal Government and various levels of government or Indian tribes. Therefore, we encourage State and local governments or Indian tribes to provide us with information about how the Department's rulemakings impact them.

Purpose

The Department is publishing this regulatory agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity and should result in more effective public participation. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the agenda. Regulatory action, in addition to the items listed, is not precluded.

Dated: September 24, 2010.

Ray LaHood,

Secretary of Transportation.

Appendix A—Instructions for Obtaining Copies of Regulatory Documents

To obtain a copy of a specific regulatory document in the agenda, you should communicate directly with the contact person listed with the regulation at the address below. We note that most, if not all, such documents, including the semiannual agenda, are available through the Internet at http://www.regulations.gov. See Appendix C for more information.

(Name of contact person), (Name of the DOT agency), 1200 New Jersey Avenue SE., Washington, DC 20590. (For the Federal Aviation Administration, substitute the following address: Office of Rulemaking, ARM-1,

DOT

800 Independence Avenue SW., Washington, DC 20591).

Appendix B—General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

FAA – Rebecca MacPherson, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Avenue SW., Room 915A, Washington, DC 20591; telephone (202) 267-3073.

FHWA – Jennifer Outhouse, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-0761.

FMCSA – Steven J. LaFreniere, Regulatory Ombudsman, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-0596.

NHTSA – Steve Wood, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-2992.

FRA – Kathryn Shelton, Office of Chief Counsel, 1200 New Jersey Avenue SE., Room W31-214, Washington, DC 20590; telephone (202) 493-6063.

FTA – Linda Ford, Office of Chief Counsel, 1200 New Jersey Avenue SE., Room E56-202, Washington, DC 20590; telephone (202) 366-4063.

SLSDC – Carrie Mann Lavigne, Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-0091.

PHMSA – Patricia Burke, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-4400.

MARAD – Christine Gurland, Office of Chief Counsel, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-5157.

RITA – Robert Monniere, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-5498.

OST – Neil Eisner, Office of Regulation and Enforcement, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-4723.

Appendix C—Public Rulemaking Dockets

All comments via the Internet are submitted through the Federal Docket Management System (FDMS) at the following address: http://www.regulations.gov. The FDMS allows the public to search, view, download, and comment on all Federal agency rulemaking documents in one central online system. The above referenced Internet address also allows the public to sign up to receive notification when certain documents are placed in the dockets.

The public also may review regulatory dockets at, or deliver comments on proposed rulemakings to, the Dockets Office at 1200 New Jersey Avenue SE., Room W12-140, Washington, DC 20590, 1-800-647-5527. Working Hours: 9-5.

Appendix D—Review Plans for Section 610 and Other Requirements

Part I— The Plan

General

The Department of Transportation has long recognized the importance of regularly reviewing its existing regulations to determine whether they need to be revised or revoked. Our 1979 Regulatory Policies and Procedures require such reviews. We also have responsibilities under Executive Order 12866 ''Regulatory Planning and Review'' and section 610 of the Regulatory Flexibility Act to conduct such reviews. This includes the use of plain language techniques in new rules and considering its use in existing rules when we have the opportunity and resources permit its use. We are committed to continuing our reviews of existing rules and, if needed, will initiate rulemaking actions based on these reviews.

Section 610 Review Plan

Section 610 requires that we conduct reviews of rules that (1) have been published within the last 10 years and (2) have a ''significant economic impact on a substantial number of small entities'' (SEIOSNOSE). It also requires that we publish in the **Federal Register** each year a list of any such rules that we will review during the next year. The Office of the Secretary and each of the Department's Operating Administrations have a 10-year review plan. These reviews comply with section 610 of the Regulatory Flexibility Act.

Other Review Plan(s)

All elements of the Department, except for the Federal Aviation Administration (FAA), have also elected to use this 10-year plan process to comply with the review requirements of the Department's Regulatory Policies and Procedures and Executive Order 12866.

Changes to the Review Plan

Some reviews may be conducted earlier than scheduled. For example, to the extent resources permit, the plain language reviews will be conducted more quickly. Other events, such as accidents, may result in the need to conduct earlier reviews of some rules. Other factors may also result in the need to make changes; for example, we may make changes in response to public comment on this plan or in response to a Presidentially mandated review. If there is any change to the review plan, we will note the change in the following agenda. For any section 610 review, we will provide the required notice prior to the review.

Part II— The Review Process

The Analysis

Generally, the agencies have divided their rules into 10 different groups and plan to analyze one group each year. For purposes of these reviews, a year will coincide with the fall-to-fall schedule for publication of the agenda. Thus, Year 1 (2008) begins in the fall of 2008 and ends in the fall of 2009; Year 2 (2009) begins in the fall of 2009 and ends in the fall of 2010; and so on. We request public comment on the timing of the reviews. For example, is there a reason for scheduling an analysis and review for a particular rule earlier than we have? Any comments concerning the plan or particular analyses should be submitted to the regulatory contacts listed in Appendix B, General Rulemaking Contact Persons.

Section 610 Review

The Agency will analyze each of the rules in a given year's group to determine whether any rule has a SEIOSNOSE and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. The level of analysis will, of course, depend on the nature of the rule and its applicability. Publication of agencies' section 610 analyses listed each fall in this agenda provides the public with notice and an opportunity to comment consistent with

the requirements of the Regulatory Flexibility Act. We request that public comments be submitted to us early in the analysis year concerning the small entity impact of the rules to help us in making our determinations.

In each fall agenda, the Agency will publish the results of the analyses it has completed during the previous year. For rules that had a negative finding on SEIOSNOSE, we will give a short explanation (e.g., ''these rules only establish petition processes that have no cost impact'' or ''these rules do not apply to any small entities''). For parts, subparts, or other discrete sections of rules that do have a SEIOSNOSE, we will announce that we will be conducting a formal section 610 review during the following 12 months. At this stage, we will add an entry to the Agenda in the prerulemaking section describing the review in more detail. We also will seek public comment on how best to lessen the impact of these rules and provide a name or docket to which public comments can be submitted. In some cases, the section 610 review may be part of another unrelated review of the rule. In such a case, we plan to clearly indicate which parts of the review are being conducted under section 610.

Other Reviews

The Agency will also examine the specified rules to determine whether any other reasons exist for revising or revoking the rule or for rewriting the rule in plain language. In each fall agenda, the Agency will also publish information on the results of the examinations completed during the previous year.

The FAA, in addition to reviewing its rules in accordance with the Section 610 Review Plan, has established a tri-annual process to comply with the review requirements of the Department's Regulatory Policies and Procedures, Executive Order 12866, and Plain Language Review Plan. The FAA's latest review notice was published November 15, 2007 (72 FR 64170). In that notice, the FAA requested comments from the public to identify those regulations currently in effect that it should amend, remove, or simplify. The FAA also requested the public provide any specific suggestions where rules could be developed as performance-based rather than prescriptive, and any specific plain language that might be used, and provide suggested language on how those rules should be written. The FAA will review the issues addressed by the commenters against its regulatory agenda and rulemaking program efforts and adjust its regulatory priorities consistent with its statutory responsibilities. At the end of this process, the FAA will publish a summary and general disposition of comments and indicate, where appropriate, how it will adjust its regulatory priorities.

Part III— List of Pending Section 610 Reviews

The Agenda identifies the pending DOT Section 610 Reviews by inserting (Section 610 Review) after the title for the specific entry. For further information on the pending reviews, see the agenda entries at www.reginfo.gov. For example, to obtain a list of all entries that are Section 610 Reviews under the Regulatory Flexibility Act, a user would select the desired responses on the search screen (by selecting ''advanced search'') and, in effect, generate the desired ''index'' of reviews.

OFFICE OF THE SECRETARY
SECTION 610 AND OTHER REVIEWS

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	49 CFR parts 91 through 99 and 14 CFR parts 200 through 212	2008	2009
2	48 CFR parts 1201 through 1253 and new parts and subparts	2009	2010
3	14 CFR parts 213 through 232	2010	2011
4	14 CFR parts 234 through 254	2011	2012
5	14 CFR parts 255 through 298 and 49 CFR part 40	2012	2013
6	14 CFR parts 300 through 373	2013	2014
7	14 CFR parts 374 through 398	2014	2015
8	14 CFR part 399 and 49 CFR parts 1 through 11	2015	2016
9	49 CFR parts 17 through 28	2016	2017
10	49 CFR parts 29 through 39 and parts 41 through 89	2017	2018

Year 1 (fall 2008) List of rules analyzed and a summary of results

49 CFR part 93 — Aircraft Allocation

- Section 610: There is no SEIOSNOSE.
- General: The agency will propose revising this regulation to reflect a transfer of the functions from the Office of Emergency Transportation (OET) to the Office of Intelligence, Security and Response (S-60). OET was absorbed into S-60 and no longer exists as a separate office. The proposed changes will not cause an economic impact.

Year 1 (fall 2008) List of rules with ongoing analysis

49 CFR part 91—International Air Transportation Fair Competitive Practices
49 CFR part 92—Recovering Debts to the United States by Salary Offset
49 CFR part 95—Advisory Committees
49 CFR part 98—Enforcement of Restrictions on Post-Employment Activities
49 CFR part 99—Employee Responsibilities and Conduct
14 CFR part 200—Definitions and Instructions
14 CFR part 201—Air Carrier Authority Under Subtitle VII of Title 49 of the United States Code [Amended]
14 CFR part 203—Waiver of Warsaw Convention Liability Limits and Defenses
14 CFR part 204—Data to Support Fitness Determinations

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14 CFR part 205—Aircraft Accident Liability Insurance
14 CFR part 206—Certificates of Public Convenience and Necessity: Special Authorizations and Exemptions
14 CFR part 207—Charter Trips by U.S. Scheduled Air Carriers
14 CFR part 208—Charter Trips by U.S. charter air Carriers
14 CFR part 211—Applications for Permits to Foreign Air Carriers
14 CFR part 212—Charter Rules for U.S. and Foreign Direct Air Carriers

Year 2 (fall 2009) List of rules analyzed and a summary of results

48 CFR part 1201—Federal Acquisition Regulations System
- Section 610: There is no SEIOSNOSE.
- General: This rule prescribes Agency control and compliance procedures concerning the proliferation of acquisition regulations and any revisions. M-60's plain language review of this rule indicates minor editorial changes are needed but no need for substantial revision.

48 CFR part 1202—Definitions of Words and Terms
- Section 610: There is no SEIOSNOSE.
- General: This rule provides definitions of words and terms concerning acquisitions in DOT. M-60's plain language review of this rule indicates no need for substantial revision.

48 CFR part 1203—Improper Business Practices and Personal Conflicts of Interest
- Section 610: There is no SEIOSNOSE.
- General: This rule provides process for reporting suspected violations of the Gratuities clause. M-60's plain language review of this rule indicates minor editorial changes are needed but no need for substantial revision.

48 CFR part 1204—Administrative Matters
- Section 610: There is no SEIOSNOSE.
- General: This rule provides procedures for closing out contract files and supporting closeout documents. M-60's plain language review of this rule indicates no need for substantial revision.

48 CFR part 1205—Publicizing Contract Actions
- Section 610: There is no SEIOSNOSE.
- General: This rule provides methods of disseminating information. M-60's plain language review of this rule indicates no need for substantial revision.

48 CFR part 1206—Competition Requirements
- Section 610: There is no SEIOSNOSE.
- General: This rule provides information concerning competition advocates. M-60's plain language review of this rule indicates no need for substantial revision.

48 CFR part 1207—Acquisition Planning
- Section 610: There is no SEIOSNOSE.
- General: This rule provides information concerning requirements which will be followed when cost comparisons between Government and Contractor performance are conducted. M-60's plain language review of this rule indicates no need for substantial revision.

48 CFR part 1211—Describing Agency Needs
- Section 610: There is no SEIOSNOSE.
- General: This provides information concerning the need to include, as applicable, safeguards to ensure safety, security, and environmental protection in requirements documents. M-60's plain language review of this rule indicates no need for substantial revision.

48 CFR part 1213—Simplified Acquisition Procedures
- Section 610: There is no SEIOSNOSE.
- General: This provides DOT procedures for acquiring training services. M-60's plain language review of this rule indicates no need for revision.

48 CFR part 1214—Sealed Bidding
- Section 610: There is no SEIOSNOSE.
- General: This rule provides for telegraphic bids to be communicated provided procedures have been established by the COCO. M-60's plain language review of this rule indicates no need for revision.

48 CFR part 1215—Contracting By Negotiation
- Section 610: There is no SEIOSNOSE.
- General: This rule provides information concerning the solicitation and receipt of proposals and information including evaluation. M-60's plain language review of this rule indicates no need for substantial revision.

48 CFR part 1216—Types of Contracts
- Section 610: There is no SEIOSNOSE.
- General: This rule provides information concerning Fixed-Price Contracts, Incentive Contracts, Indefinite-Delivery Contracts, and Time-and-Materials, Labor-Hour, and Letter Contracts. M-60's plain language review of this rule indicates no need for substantial revision.

48 CFR part 1217—Special Contracting Methods
- Section 610: There is no SEIOSNOSE.
- General: This rule provides procedures for fixed price contracts for vessel repair, alteration, or conversion. M-60's plain language review of this rule indicates no need for substantial revision.

48 CFR part 1219—Small Business Programs

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- Section 610: There is no SEIOSNOSE.
- General: This rule addresses contracting issues associated with subcontracting with Small Business, Small Disadvantaged Business, and Women-Owned Small Business concerns. It also provides some discussion of small business competitiveness demonstration program.

48 CFR part 1222—Application of Labor Laws to Government Acquisitions
- Section 610: There is no SEIOSNOSE.
- General: This rule covers aspects of basic labor policies and labor standards. Particular focus is directed to labor standards involving construction.

48 CFR part 1223—Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace
- Section 610: There is no SEIOSNOSE.
- General: This rule addresses safety requirements for selected DOT contracts. The emphasis here is on hazardous material identification and material safety data.

48 CFR part 1224—Protection of Privacy and Freedom of Information
- Section 610: There is no SEIOSNOSE.
- General: This rule includes discussion of procedures and appeals processes with a focus on the Freedom of Information Act.

48 CFR part 1227—Patents, Data, and Copyrights
- Section 610: There is no SEIOSNOSE.
- General: This rule includes discussion of procedures and appeals processes.

48 CFR part 1228—Bonds and Insurance
- Section 610: There is no SEIOSNOSE.
- General: This rule covers bonds and other financial protections, insurance, and performance and payment bonds for certain contracts.

48 CFR part 1231—Contract Cost Principles and Procedures
- Section 610: There is no SEIOSNOSE.
- General: This rule discusses contracts with commercial organizations.

48 CFR part 1232—Contract Financing
- Section 610: There is no SEIOSNOSE.
- General: This rule focuses on contract payment processes.

48 CFR part 1233—Protests, Disputes, and Appeals
- Section 610: There is no SEIOSNOSE.
- General: This rule focuses on the protests, disputes, and appeals process with a particular emphasis on CO decisions and alternative dispute resolution.

48 CFR part 1234—[Reserved]

48 CFR part 1235—Research and Development Contracting
- Section 610: There is no SEIOSNOSE.
- General: This rule includes discussion of research and development contracting and provides discussion on research misconduct.

48 CFR part 1236—Construction and Architect-Engineer Contracts
- Section 610: There is no SEIOSNOSE.
- General: This rule covers contract clauses for construction and architect-engineer contracts. It also includes discussion of special precautions for work at operating airports.

48 CFR part 1237—Service Contracting
- Section 610: There is no SEIOSNOSE.
- General: This rule includes information relating to DOT procedures for acquiring training services, and solicitation provisions and contract clauses.

48 CFR part 1239—Acquisition of Information Technology
- Section 610: There is no SEIOSNOSE.
- General: This rule includes solicitation procedures and contract clauses.

48 CFR part 1242—Contract Administration and Audit Services
- Section 610: There is no SEIOSNOSE.
- General: This rule includes appropriate contract clauses for use in audit services.

48 CFR part 1245—Government Property
- Section 610: There is no SEIOSNOSE.
- General: This rule focuses on the management of government property, reporting results of inventory, and audit of property control systems.

48 CFR part 1246—Quality Assurance
- Section 610: There is no SEIOSNOSE.
- General: This rule incorporates a discussion of warranties, and warranty terms and conditions.

48 CFR part 1247—Transportation
- Section 610: There is no SEIOSNOSE.
- General: This rule focuses on ocean transportation by U.S.-flag vessels.

48 CFR part 1252—Solicitation Provisions and Contract Clauses
- Section 610: There is no SEIOSNOSE.

- General: This rule includes, but is not limited to, evaluation of offers subject to an economic price adjustment, determination of award, performance evaluation plans, distribution of award fee, settlement of letter contracts, contract performance, subcontracts and liability and insurance.

48 CFR part 1253—Forms

- Section 610: There is no SEIOSNOSE.
- General: This rule includes prescriptions and illustrations of forms.

Year 3 (fall 2010) List of rules to be analyzed during the next year

14 CFR part 213—Terms, Conditions, and Limitations of Foreign Air Carrier Permits
14 CFR part 214—Terms, Conditions, and Limitations of Foreign Air Carrier Permits Authorizing Charter Transportation Only
14 CFR part 215—Use and Change of Names of Air Carriers, Foreign Air Carriers and Commuter Air Carriers
14 CFR part 216—Comingling of Blind Sector Traffic by Foreign Air Carriers
14 CFR part 217—Reporting Traffic Statistics by Foreign Air Carriers in Civilian Scheduled, Charter, and Nonscheduled Services
14 CFR part 218—Lease by Foreign Air Carrier or Other Foreign Person of Aircraft With Crew
14 CFR part 221—Tariffs
14 CFR part 222—Intermodal Cargo Services by Foreign Air Carriers
14 CFR part 223—Free and Reduced-Rate Transportation
14 CFR part 232—Transportation of Mail, Review of Orders of Postmaster General

FEDERAL AVIATION ADMINISTRATION
SECTION 610 REVIEW PLAN

Year	Regulations to be Reviewed	Analysis Year	Review Year
1	14 CFR parts 119 through 129 and parts 150 through 156	2008	2009
2	14 CFR parts 133 through 139 and parts 157 through 169	2009	2010
3	14 CFR parts 141 through 147 and parts 170 through 187	2010	2011
4	14 CFR parts 189 through 198 and parts 1 through 16	2011	2012
5	14 CFR parts 17 through 33	2012	2013
6	14 CFR parts 34 through 39 and parts 400 through 405	2013	2014
7	14 CFR parts 43 through 49 and parts 406 through 415	2014	2015
8	14 CFR parts 60 through 77	2015	2016
9	14 CFR parts 91 through 105	2016	2017
10	14 CFR parts 417 through 460	2017	2018

The FAA has elected to use the two-step, two-year process used by most DOT modes in past plans. As such, the FAA has divided its rules into 10 groups as displayed in the table below. During the first year (the ''analysis year''), all rules published during the previous 10 years within a 10% block of the regulations will be analyzed to identify those with a SEIONOSE. During the second year (the ''review year''), each rule identified in the analysis year as having a SEIONOSE will be reviewed in accordance with Section 610 (b) to determine if it should be continued without change or changed to minimize impact on small entities. Results of those reviews will be published in the DOT Semiannual Regulatory Agenda.

Year 3 (fall 2010) List of rules analyzed and summary of results

14 CFR part 141—Pilot Schools

- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

14 CFR part 142—Training Centers

- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

14 CFR part 145—Repair Stations

- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

14 CFR part 147—Aviation Maintenance Technician Schools

- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

14 CFR part 170—Establishment and Discontinuance Criteria for Air Traffic Control Services and Navigational Facilities

- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.

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- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

14 CFR part 171—Non-Federal Navigation Facilities
- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

14 CFR part 183—Representatives of the Administrator
- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

14 CFR part 185—Testimony by Employees And Production of Records in Legal Proceedings, and Service of Legal Process and Pleadings
- Section 610: 14 CFR part 185 does not affect small entities. Therefore, amendments to it cannot have a SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

14 CFR part 187—Fees
- Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FAA's plain language review of these rules indicates no need for substantial revision.

Year 4 (fall 2011) List of rules to be analyzed during the next year

14 CFR part 189—Use of Federal Aviation Administration Communications System 14 14 CFR part 198-Aviation Insurance
14 CFR part 1—Definitions and Abbreviations
14 CFR part 3—General Requirements
14 CFR part 11—General Rulemaking Procedures
14 CFR part 13—Investigative and Enforcement Procedures
14 CFR part 14—Rules Implementing the Equal Access to Justice Act of 1980
14 CFR part 15—Administrative Claims Under Federal Tort Claims Act
14 CFR part 16—Rules of Practice for Federally Assisted Airport Enforcement Proceedings

FEDERAL HIGHWAY ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	None	2008	2009
2	23 CFR parts 1 to 260	2009	2010
3	23 CFR parts 420 to 470	2010	2011
4	23 CFR part 500	2011	2012
5	23 CFR parts 620 to 637	2012	2013
6	23 CFR parts 645 to 669	2013	2014
7	23 CFR 710 to 924	2014	2015
8	23 CFR 940 to 973	2015	2016
9	23 CFR parts 1200 to 1252	2016	2017
10	New parts and subparts	2017	2018

Federal-Aid Highway Program

The FHWA has adopted regulations in title 23 of the CFR, chapter I, related to the Federal-Aid Highway Program. These regulations implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways. The primary law authorizing Federal aid for highways is chapter I of title 23 of the U.S.C. Section 145 of title 23 expressly provides for a federally assisted State program. For this reason, the regulations adopted by the FHWA in title 23 of the CFR primarily relate to the requirements that States must meet to receive Federal funds for the construction and other work related to highways. Because the regulations in title 23 primarily relate to States, which are not defined as small entities under the Regulatory Flexibility Act, the FHWA believes that its regulations in title 23 do not have a significant economic impact on a substantial number of small entities. The FHWA solicits public comment on this preliminary conclusion.

Year 2 (fall 2009) List of rules analyzed and a summary of results

23 CFR part 1—General
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 140—Reimbursement
- Section 610: No SEIOSNOSE. This section applies primarily to State transportation agencies that are not small entities.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

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23 CFR part 172—Administration of Engineering and Design-Related Service Contracts
- Section 610: No SEIOSNOSE. This section applies primarily to State transportation agencies that are not small entities.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 180—Credit Assistance for Surface Transportation Projects
- Section 610: No SEIOSNOSE. This section applies primarily to State transportation agencies that are not small entities.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 190—Incentive Payments for Controlling Outdoor Advertising on the Interstate System
- Section 610: No SEIOSNOSE. This section applies primarily to State transportation agencies that are not small entities.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 192—Drug Offender's Driver's License Suspension
- Section 610: No SEIOSNOSE. This section applies primarily to State transportation agencies that are not small entities.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 200—Title VI Program and Related Statutes-Implementation and Review procedures
- Section 610: No SEIOSNOSE. This section applies primarily to State transportation agencies that are not small entities.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 230—External Programs
- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 260—Education and Training Programs
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

Year 3 (fall 2010) List of rules that will be analyzed during the next year

23 CFR part 420—Planning and Research Program Administration
23 CFR part 450—Planning Assistance and Standards
23 CFR part 460—Public Road Mileage for Apportionment of Highway Safety Funds
23 CFR part 470—Highway Systems

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	49 CFR parts 372, subpart A, and 381	2008	2009
2	49 CFR parts 386, 389, and 395	2009	2010
3	49 CFR parts 325, 388, 350, and 355	2010	2011
4	49 CFR parts 380 and 382 to 385	2011	2012
5	49 CFR parts 390 to 393 and 396 to 399	2012	2013
6	49 CFR parts 356, 367, 369 to 371, 372, subparts B-C	2013	2014
7	49 CFR parts 373, 374, 376, and 379	2014	2015
8	49 CFR parts 360, 365, 366, and 368	2015	2016
9	49 CFR parts 377, 378, and 387	2016	2017
10	49 CFR parts 303, 375, and new parts and subparts	2017	2018

Year 2 (fall 2009) List of rules analyzed and a summary of results

49 CFR part 386—Rules of Practice for Motor Carrier, Broker, Freight Forwarder, and Hazardous Materials Proceedings
- Section 610: There is SEIOSNOSE, as a significant number of small entities are affected by fees and reporting requirements in the regulation. It was found that the cost of a formal hearing to appeal a decision may have a significant impact on small firms.
- General: The Agency will assess the need for changes once the review of these regulations is complete. FMCSA's plain language review of these regulations indicates no need for substantial revision.

49 CFR part 395—Hours of Service of Drivers
- This has been postponed, due to initiation of new rulemaking; Agency is set to publish in July 2011.

Year 2 (fall 2009) List of rules with ongoing analysis

49 CFR part 389—Rulemaking Procedures — Federal Motor Carrier Safety Regulations

Year 3 (fall 2010) List of rules that will be analyzed during the next year

49 CFR part 325—Compliance With Interstate Motor Carrier Noise Emission

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49 CFR part 388—Cooperative Agreements With States
49 CFR part 350—Commercial Motor Carrier Safety Assistance Program
49 CFR part 355—Compatibility of State Laws and Regulations Affecting Interstate Motor Carrier Operations

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	49 CFR 571.223 through 571.500 and parts 575 and 579	2008	2009
2	23 CFR parts 1200 and 1300	2009	2010
3	49 CFR parts 501 through 526 and 571.213	2010	2011
4	49 CFR 571.131, 571.217, 571.220, 571.221, and 571.222	2011	2012
5	49 CFR 571.101 through 571.110, and 571.135, 571.138, and 571.139	2012	2013
6	49 CFR parts 529 through 578, except parts 571 and 575	2013	2014
7	49 CFR 571.111 through 571.129 and parts 580 through 588	2014	2015
8	49 CFR 571.201 through 571.212	2015	2016
9	49 CFR 571.214 through 571.219, except 571.217	2016	2017
10	49 CFR parts 591 through 595 and new parts and subparts	2017	2018

Year 2 (fall 2009) List of rules analyzed and a summary of the results

23 CFR part 1200—Uniform Procedures for State Highway Safety Programs
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1205—Highway Safety Programs; Determinations of Effectiveness
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1206—Rules of Procedure for Invoking Sanctions Under the Highway Safety Act of 1966
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1208—National Minimum Drinking Age
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1210—Operation of Motor Vehicles by Intoxicated Minors
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1215—Use of Safety Belts—Compliance and Transfer-of-Funds Procedures
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1225—Operation of Motor Vehicles by Intoxicated Persons
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1235—Uniform System for Parking for Persons with Disabilities
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1240—Safety Incentive Grants for Use of Seat Belts-Allocations Based on Seat Belt Use Rates
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1250—Political Subdivision Participation in State Highway Safety Programs
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1251—State Highway Safety Agency
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

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23 CFR part 1252—State Matching of Planning and Administration Costs
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1270—Open Container Laws
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1275—Repeat Intoxicated Driver Laws
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1313—Incentive Grant Criteria for Alcohol-Impaired Driving Prevention Programs
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1327-Procedures for Participating in and Receiving Information From the National Driver Register Problem Driver Pointer System
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1335—State Highway Safety Data Improvements
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1340—Uniform Criteria for State Observational Surveys of Seat Belt Use
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1345—Incentive Grant Criteria for Occupant Protection Programs
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

23 CFR part 1350—Incentive Grant Criteria for Motorcycle Safety Program
- Section 610: No SEIOSNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

Year 3 (fall 2010) List of rules that will be analyzed during the next year

49 CFR part 501—Organization and Delegation of Powers and Duties
49 CFR part 509—OMB Control Numbers for Information Collection Requirements
49 CFR part 510—Information Gathering Powers
49 CFR part 511—Adjudicative Procedures
49 CFR part 512—Confidential Business Information
49 CFR part 520—Procedures for Considering Environmental Impacts
49 CFR part 523—Vehicle Classification
49 CFR part 525—Exemptions from Average Fuel Economy Standards
49 CFR part 526—Petitions and Plans for Relief Under the Automobile Fuel Efficiency Act of 1980
49 CFR 571.213—Child Restraint Systems

FEDERAL RAILROAD ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	49 CFR parts 200 and 201	2008	2009
2	49 CFR parts 207, 209, 211, 215, 238, and 256	2009	2010
3	49 CFR parts 210, 212, 214, 217, and 268	2010	2011
4	49 CFR part 219	2011	2012
5	49 CFR parts 218, 221, 241, and 244	2012	2013
6	49 CFR parts 216, 228, and 229	2013	2014
7	49 CFR parts 223 and 233	2014	2015
8	49 CFR parts 224, 225, 231, and 234	2015	2016
9	49 CFR parts 222, 227, 235, 236, 250, 260, and 266	2016	2017
10	49 CFR parts 213, 220, 230, 232, 239, 240, and 265	2017	2018

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Year 2 (fall 2009) List of rules analyzed and a summary of results

49 FR part 207—Railroad Police Officers
- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR part 209—Railroad Safety Enforcement Procedures
- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR part 211—Rules of Practice
- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR part 215—Railroad Freight Car Safety Standards
- Section 610: There is a SEIOSNOSE.
- General: No changes are needed. This rule already limits economic impact on small entities through Appendix D of the rule. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR part 238—Passenger Equipment Safety Standards
- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR part 256—Financial Assistance for Railroad Passenger Terminals
- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FRA's plain language review of the rule indicates no need for substantial revision.

Year 3 (fall 2010) List of rule(s) that will be analyzed during next year

49 CFR part 210—Railroad Noise Emission Compliance Regulations
49 CFR part 212—State Safety Participation Regulations
49 CFR part 214—Railroad Workplace Safety
49 CFR part 217—Railroad Operating Rules
49 CFR part 268—Magnetic Levitation Transportation Technology Deployment Program

FEDERAL TRANSIT ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	49 CFR parts 604, 605, and 633	2008	2009
2	49 CFR parts 661 and 665	2009	2010
3	49 CFR part 633	2010	2011
4	49 CFR parts 609 and 611	2011	2012
5	49 CFR parts 613 and 614	2012	2013
6	49 CFR part 622	2013	2014
7	49 CFR part 630	2014	2015
8	49 CFR part 639	2015	2016
9	49 CFR parts 659 and 663	2016	2017
10	49 CFR part 665	2017	2018

Year 2 (fall 2009) List of rules analyzed and summary of results

49 CFR part 665—Bus Testing
- Section 610: The Agency has determined that the rule will not have a significant effect on a substantial number of small entities.
- General: This rulemaking amends FTA's bus testing program to incorporate brake performance and emission tests. The rule also clarifies existing regulatory requirements and was drafted using plain language techniques.

Year 3 (fall 2010) List of rules that will be analyzed during the next year

49 CFR part 605—School Bus Operations
49 CFR part 633—Capital Project Management

MARITIME ADMINISTRATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	46 CFR parts 201 through 205	2008	2009

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MARITIME ADMINISTRATION (Continued)
SECTION 610 AND OTHER REVIEWS

Year	Regulations To Be Reviewed	Analysis Year	Review Year
2	46 CFR parts 221 through 232	2009	2010
3	46 CFR parts 249 through 296	2010	2011
4	46 CFR part 298	2011	2012
5	46 CFR parts 307 through 309	2012	2013
6	46 CFR part 310	2013	2014
7	46 CFR parts 315 through 340	2014	2015
8	46 CFR parts 345 through 381	2015	2016
9	46 CFR parts 382 through 389	2016	2017
10	46 CFR parts 390 through 393	2017	2018

Year 2 (fall 2009) List of rules analyzed and a summary of the results

46 CFR part 221—Regulated Transactions Involving Documented Vessels and Other Maritime Interests

- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- General: No changes are needed. Where confusing or wordy language has been identified, revisions will be made.

46 CFR part 232—Uniform Financial Reporting Requirements

- Section 610: No SEIOSNOSE. Some small entities may be affected, but the economic impact on small entities will not be significant.
- General: No changes are needed. Where confusing or wordy language has been identified, revisions will be made.

Year 3 (fall 2010) List of rules that will be analyzed during the next year

46 CFR part 249—Approval of Underwriters for Marine Hull Insurance
46 CFR part 251—Application for Subsidies and Other Direct Financial Aid
46 CFR part 252—Operating-Differential Subsidy for Bulk Cargo Vessels Engaged in Worldwide Services
46 CFR part 272—Requirements and Procedures for Conducting Condition Surveys and Administering Maintenance and Repair Subsidy
46 CFR part 276—Construction-Differential Subsidy Repayment
46 CFR part 277—Domestic and Foreign Trade; Interpretations
46 CFR part 280—Limitations on the Award and Payment of Operating-Differential Subsidy for Liner Operators
46 CFR part 281—Information and Procedure Required under Liner Operating-Differential Subsidy Agreements
46 CFR part 282—Operating-Differential Subsidy for Liner Vessels Engaged in Essential Services in the Foreign Commerce of the United States
46 CFR part 283—Dividend Policy for Operators Receiving Operating-Differential Subsidy
46 CFR part 287—Establishment of Construction Reserve Funds
46 CFR part 289—Insurance of Construction-Differential Subsidy Vessels, Operating-Differential Subsidy Vessels, and of Vessels Sold or Adjusted Under the Merchant Ship Sales Act of 1946
46 CFR part 295—Maritime Security Program (MSP)
46 CFR part 296—Maritime Security Program (MSP)

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION (PHMSA)
SECTION 610 AND OTHER REVIEWS

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	49 CFR part 178	2008	2009
2	49 CFR parts 178 through 180	2009	2010
3	49 CFR parts 172 and 175	2010	2011
4	49 CFR part 171, sections 171.15 and 171.16	2011	2012
5	49 CFR parts 106, 107, 171, 190, and 195	2012	2013
6	49 CFR parts 174, 177, 191, and 192	2013	2014
7	49 CFR parts 176 and 199	2014	2015
8	49 CFR parts 172 through 178	2015	2016
9	49 CFR parts 172, 173, 174, 176, 177, and 193	2016	2017
10	49 CFR parts 173 and 194	2017	2018

Year 2 (fall 2009) List of rules analyzed and a summary of results

49 CFR part 178—Specifications for Packagings

- Section 610: There is no SEIOSNOSE. A substantial number of small entities, particularly those that use performance oriented packagings, may be affected by this rule, but the economic impact on those entities is not significant.

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- General: This rule prescribes minimum Federal safety standards for the construction of DOT specification packagings, these requirements are necessary to protect transportation workers and the public and to ensure the survivability of DOT specification packagings during transportation incidents. PHMSA's plain language review of this rule indicates no need for substantial revision.

49 CFR part 179—Specifications for Tank Cars

- Section 610: There is no SEIOSNOSE. This rule prescribes specification requirements as minimum safety standards for rail tank cars used to transport hazardous materials in commerce. Some small entities may be affected, but the economic impact on small entities is not significant.
- General: Specification requirements for tank cars are considered minimum Federal safety standards that are necessary to protect transportation workers and the public and to ensure the survivability of DOT specification packagings during transportation incidents. PHMSA's plain language review of this rule indicates no need for substantial revision.

49 CFR part 180—Continuing Qualification and Maintenance of Packagings

- Section 610: There is no SEIOSNOSE. This rule impacts a substantial number of small entities, but when the survivability, durability, and service life of DOT specification packagings covered under this rule are fully considered, the economic impact on those entities is not significant.
- General: This rule prescribes requirements for maintaining and verifying the integrity of DOT specification packagings used for the transportation of hazardous materials in commerce. This rule ensures that DOT specification packagings continue to conform to the specifications to which they were originally manufactured and designed. PHMSA's plain language review of this rule indicates no need for substantial revision.

Year 3 (fall 2010) List of rules that will be analyzed during the next year

49 CFR part 172—Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, Training Requirements, and Security Plans

49 CFR part 175—Carriage By Aircraft

RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION (RITA)
SECTION 610 AND OTHER REVIEWS

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	14 CFR part 241, form 41	2008	2009
2	14 CFR part 241, schedule T-100, and part 217	2009	2010
3	14 CFR part 298	2010	2011
4	14 CFR part 241, section 19-7	2011	2012
5	14 CFR part 291	2012	2013
6	14 CFR part 234	2013	2014
7	14 CFR part 249	2014	2015
8	14 CFR part 248	2015	2016
9	14 CFR part 250	2016	2017
10	14 CFR part 374a, ICAO	2017	2018

Year 1 (fall 2008) List of rules with ongoing analysis

14 CFR part 241—Uniform System of Accounts and Reports for Large Certificated Air Carriers, Form 41

Year 2 (fall 2009) List of rules analyzed and a summary of the results

14 CFR part 241—Schedule T-100

- Section 610: There is no SEIONOSE. Part 241 Schedule T-100 applies to only large certificated air carriers.
- General: Part 241 Schedule T-100 is a monthly report of on-flight market and nonstop segment traffic data for flights operated by large certificated air carriers. This regulation is being reviewed as part of an overall aviation data requirements review and modernization program, which will also take into account the plain language initiative.

14 CFR part 217—Reporting Traffic Statistics by Foreign Air Carriers in Civilian Scheduled, Charter, and Nonscheduled Services - Schedule T-100(f)

- Section 610: There is no SEIONOSE. This regulation applies to foreign air carriers that operate to or from the United States. Currently 93 percent of the reporting carriers are large foreign air carriers.
- General: This regulation requires the submission of traffic data for operations to or from the United States. This regulation is being reviewed as part of an overall aviation data requirements review and modernization program, which will also take into account the plain language initiative

Year 3 (fall 2010) List of rules that will be analyzed during the next year

14 CFR part 298 Subpart F—Exemptions for Air Taxi and Commuter Air Carrier Operations-Reporting Requirements

DOT

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION
SECTION 610 AND OTHER REVIEWS

Year	Regulations To Be Reviewed	Analysis Year	Review Year
1	33 CFR parts 401 through 403	2008	2009

Year 1 (fall 2008) List of rules with ongoing analysis
33 CFR part 401—Seaway Regulations and Rules
33 CFR part 402—Tariff of Tolls
33 CFR part 403—Rules of Procedure of the Joint Tolls Review Board

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
408	Use of the Seat-Strapping Method for Carrying a Wheelchair on an Aircraft	2105–AD87

+ DOT-designated significant regulation

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
409	Disadvantaged Business Enterprise; Potential Program Improvements	2105–AD75
410	**+**Enhancing Airline Passenger Protections—Part 2 **(Reg Plan Seq No. 113)**	2105–AD92

+ DOT-designated significant regulation
References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
411	Procedures for Transportation Workplace Drug and Alcohol Testing Programs	2105–AD95
412	Posting of Flight Delay Data on Websites **(Completion of a Section 610 Review)**	2105–AE02

Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
413	**+**Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers **(Reg Plan Seq No. 114)**	2120–AJ00
414	**+**Air Ambulance and Commercial Helicopter Operations; Safety Initiatives and Miscellaneous Amendments **(Reg Plan Seq No. 115)**	2120–AJ53
415	**+**Operation and Certification of Small Unmanned Aircraft Systems (SUAS)	2120–AJ60
416	**+**Repair Stations	2120–AJ61

+ DOT-designated significant regulation
References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
417	**+**Part 121 Activation of Ice Protection	2120–AJ43
418	**+**Flight and Duty Time Limitations and Rest Requirements **(Reg Plan Seq No. 116)**	2120–AJ58

+ DOT-designated significant regulation
References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

DOT

Federal Aviation Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
419	+Part 121 Exiting Icing Conditions	2120–AJ74

+ DOT-designated significant regulation

Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
420	+Commuter Operations in Very Light Jets (VLJs)	2120–AI84
421	+Automatic Dependent Surveillance—Broadcast (ADS-B) Equipage Mandate To Support Air Traffic Control Service	2120–AI92

+ DOT-designated significant regulation

Federal Motor Carrier Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
422	+Unified Registration System	2126–AA22
423	+Hours of Service **(Reg Plan Seq No. 119)**	2126–AB26
424	+Drivers of Commercial Vehicles: Restricting the Use of Cellular Phones **(Section 610 Review) (Reg Plan Seq No. 120)**	2126–AB29

+ DOT-designated significant regulation
References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Federal Motor Carrier Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
425	Brokers of Household Goods Transportation by Motor Vehicle	2126–AA84
426	+National Registry of Certified Medical Examiners **(Reg Plan Seq No. 121)**	2126–AA97
427	+Commercial Driver's License Testing and Commercial Learner's Permit Standards	2126–AB02

+ DOT-designated significant regulation
References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Federal Motor Carrier Safety Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
428	+Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States	2126–AA35

+ DOT-designated significant regulation

Federal Motor Carrier Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
429	+Cargo Insurance for Property Loss or Damage	2126–AB21

+ DOT-designated significant regulation

DOT

National Highway Traffic Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
430	+Ejection Mitigation **(Reg Plan Seq No. 125)**	2127–AK23

+ DOT-designated significant regulation
References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
431	+Passenger Car and Light Truck Corporate Average Fuel Economy Standards MYs 2012-2016	2127–AK50

+ DOT-designated significant regulation

Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
432	+Hours of Service: Passenger Train Employees **(Rulemaking Resulting From a Section 610 Review) (Reg Plan Seq No. 126)**	2130–AC15

+ DOT-designated significant regulation
References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Federal Railroad Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
433	+Positive Train Control	2130–AC03

+ DOT-designated significant regulation

Federal Transit Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
434	+Capital Project Management	2132–AA92

+ DOT-designated significant regulation

Pipeline and Hazardous Materials Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
435	+Hazardous Materials: Revisions to Requirements for the Transportation of Lithium Batteries	2137–AE44

+ DOT-designated significant regulation

Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
436	+Cargo Preference—Compromise, Assessment, Mitigation, Settlement & Collection of Civil Penalties	2133–AB75

+ DOT-designated significant regulation

Department of Transportation (DOT)
Office of the Secretary (OST)

Proposed Rule Stage

408. USE OF THE SEAT–STRAPPING METHOD FOR CARRYING A WHEELCHAIR ON AN AIRCRAFT

Legal Authority: 49 USC 41705

Abstract: This rulemaking would address whether carriers should be allowed to utilize the seat-strapping method to stow a passenger's wheelchair in the aircraft cabin.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Blane A. Workie, Attorney, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE, Washington, DC 20590
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Fax: 202 366–7152
Email: blane.workie@ost.dot.gov

RIN: 2105–AD87

Department of Transportation (DOT)
Office of the Secretary (OST)

Final Rule Stage

409. DISADVANTAGED BUSINESS ENTERPRISE; POTENTIAL PROGRAM IMPROVEMENTS

Legal Authority: 49 USC 329; 49 USC ch 401, 411, and 417; 49 USC 47107; 49 USC 47113; 49 USC 47123; PL 105—59, sec 101(b)

Abstract: This rulemaking would seek comments on alternatives concerning how to count participation by Disadvantaged Business Enterprise (DBE) firms in situations where the firms obtain items used in the performance of a contract from outside sources, including prime contractors. It would also seek comments on means of encouraging ''unbundling'' of contracts to facilitate participation by DBEs and other small businesses, on improving program forms and program oversight, and on ways of facilitating interstate certification.

Timetable:

Action	Date	FR Cite
ANPRM	04/08/09	74 FR 15904
ANPRM Comment Period End	07/07/09	
NPRM	05/10/10	75 FR 25815
NPRM Comment Period End	07/09/10	
Final Rule	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Robert C Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE, Washington, DC 20590
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TDD Phone: 202 755–7687
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RIN: 2105–AD75

410. +ENHANCING AIRLINE PASSENGER PROTECTIONS—PART 2

Regulatory Plan: This entry is Seq. No. 113 in part II of this issue of the **Federal Register**.

RIN: 2105–AD92

Department of Transportation (DOT)
Office of the Secretary (OST)

Completed Actions

411. PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS

Legal Authority: 40 USC 102; 40 USC 301; 40 USC 322; 40 USC 5331; 40 USC 20140; 40 USC 31306; 40 USC 31306; 40 USC 54101

Abstract: This rulemaking would propose to amend certain provisions of its drug and alcohol testing procedures that will address collection and testing of urine specimens. These changes would affect the role and standards applying to collectors and Medical Review Officers (MROs). The proposed changes are intended to create consistency with requirements established by the U.S. Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
NPRM	02/04/10	75 FR 5722
NPRM Comment Period End	04/05/10	
Final Rule	08/16/10	75 FR 49850
Final Rule Effective	10/01/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Mr. Mark Snider, Senior Policy Advisor, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE, W62–300, Washington, DC 20590
Phone: 202 366–6367
Fax: 202 366–3897
Email: mark.snider@dot.gov

RIN: 2105–AD95

412. ● POSTING OF FLIGHT DELAY DATA ON WEBSITES (COMPLETION OF A SECTION 610 REVIEW)

Legal Authority: 49 USC 329 chs 401 and 417

Abstract: This direct final rule amends the time period for uploading flight performance information to an air carrier's website from anytime between the 20th and 23rd day of the month to the fourth Saturday of the month.

Timetable:

Action	Date	FR Cite
Direct Final Rule; Request for Comments	06/21/10	75 FR 34925
Final Rule Effective	07/21/10	
Direct Final Rule; Confirmation of Effective Date	07/22/10	75 FR 42599

Regulatory Flexibility Analysis Required: No

DOT—OST **Completed Actions**

Agency Contact: Blane A. Workie, Attorney, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE, Washington, DC 20590
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RIN: 2105–AE02

BILLING CODE 4910—9X—S

Department of Transportation (DOT) Federal Aviation Administration (FAA) — Proposed Rule Stage

413. +QUALIFICATION, SERVICE, AND USE OF CREWMEMBERS AND AIRCRAFT DISPATCHERS

Regulatory Plan: This entry is Seq. No. 114 in part II of this issue of the **Federal Register**.

RIN: 2120–AJ00

414. +AIR AMBULANCE AND COMMERCIAL HELICOPTER OPERATIONS; SAFETY INITIATIVES AND MISCELLANEOUS AMENDMENTS

Regulatory Plan: This entry is Seq. No. 115 in part II of this issue of the **Federal Register**.

RIN: 2120–AJ53

415. +OPERATION AND CERTIFICATION OF SMALL UNMANNED AIRCRAFT SYSTEMS (SUAS)

Legal Authority: 49 USC 44701

Abstract: This rulemaking would enable small unmanned aircraft to safely operate in limited portions of the national airspace system (NAS). This action is necessary because it addresses the novel legal or policy issues about the minimum safety parameters for operating recreational remote control model and toy aircraft in the NAS. The intended effect of this action is to develop requirements and standards to ensure that risks are adequately mitigated, such that safety is maintained for the entire aviation community.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Stephen A Glowacki, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 385–4898
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RIN: 2120–AJ60

416. +REPAIR STATIONS

Legal Authority: 49 USC 44701; 49 USC 44702; 49 USC 106(g); 49 USC 40113; 49 USC 44701 to 44702; 49 USC 44707; 49 USC 44709; 49 USC 44717

Abstract: This rulemaking would update and revise the regulations for repair stations. The action is necessary because many portions of the current regulations do not reflect current repair station business practices, aircraft maintenance practices, or advances in aircraft technology.

Timetable:

Action	Date	FR Cite
NPRM	03/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: John J Goodwin, Department of Transportation, Federal Aviation Administration, 950 L'Enfant Plaza North SW, Washington, DC 20024
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Email: john.j.goodwin@faa.gov

RIN: 2120–AJ61

Department of Transportation (DOT) Federal Aviation Administration (FAA) — Final Rule Stage

417. +PART 121 ACTIVATION OF ICE PROTECTION

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701; 49 USC 44705; 49 USC 44709 to 44711; 49 USC 44713; 49 USC 44716; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44912; 49 USC 46105; 49 USC 44702; 49 USC 44717; 49 USC 44904

Abstract: This rulemaking would amend the regulations applicable to operators of certain airplanes used in air carrier service and certificated for flight in icing conditions. The standards would require either the installation of ice detection equipment or changes to the Airplane Flight Manual to ensure timely activation of the airframe ice protection system. This regulation is the result of information gathered from a review of icing accidents and incidents, and it is intended to improve the level of safety when airplanes are operated in icing conditions.

Timetable:

Action	Date	FR Cite
NPRM	11/23/09	74 FR 61055
NPRM Comment Period End	02/22/10	
Final Rule	05/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jerry Ostronic, Air Carrier Operations Branch, AFS 220, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
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Email: jerry.c.ostronic@faa.gov

RIN: 2120–AJ43

418. +FLIGHT AND DUTY TIME LIMITATIONS AND REST REQUIREMENTS

Regulatory Plan: This entry is Seq. No. 116 in part II of this issue of the **Federal Register**.

RIN: 2120–AJ58

Department of Transportation (DOT)
Federal Aviation Administration (FAA)

Long-Term Actions

419. ● +PART 121 EXITING ICING CONDITIONS

Legal Authority: 49 USC 106(g); 49 USC 40113; 49 USC 40119; 49 USC 44101; 49 USC 44701; 49 USC 44702; 49 USC 44705; 49 USC 44709; 49 USC 44710; 49 USC 44711; 49 USC 44713; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44904; 49 USC 44912; 49 USC 46105

Abstract: This rulemaking would require detection of ice formation behind the airframe ice protection system and, upon detection, would require the pilot to exit icing conditions. If adopted, this rule would apply to aircraft with a maximum takeoff weight of less than 60,000 pounds. This rulemaking is based on recommendations from an Aviation Rulemaking Advisory Committee working group after reviewing certain accidents and incidents. The intended effect of this action is to avoid similar accidents and incidents in the future.

Timetable:

Action	Date	FR Cite
NPRM	12/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Robert Hettman, ANM–112, Transport Airplane Directorate, Department of Transportation, Federal Aviation Administration, 1601 Lind Avenue, SW, Renton, WA 98057
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RIN: 2120–AJ74

Department of Transportation (DOT)
Federal Aviation Administration (FAA)

Completed Actions

420. +COMMUTER OPERATIONS IN VERY LIGHT JETS (VLJS)

Legal Authority: 49 USC 106(g); 49 USC 1155; 49 USC 40103; 49 USC 40113; 49 USC 40119; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44705; 49 USC 44709 to 44713; 49 USC 44715 to 44717; 49 USC 44722; 49 USC 44901; 49 USC 44903; 49 USC 44912; 49 USC 46105; 49 USC 46306; 49 USC 46316; 49 USC 46504; 49 USC 46506; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47531; 49 USC 44702; 49 USC 44904; 49 USC 46507

Abstract: This rulemaking would establish a rule to allow passenger-carrying commuter operations to be conducted under the provisions of part 135 using multiengine turbojets, certificated under either part 23 or part 25, configured with nine or fewer passenger seats. The rulemaking would allow multiengine turbojet operators to provide commuter service to the traveling public, thus accommodating new technologies and a new generation of turbojet airplanes that otherwise would not be allowed in part 135 commuter service. Since 1995, turbojets used in scheduled operations must operate under the provisions of part 121. This current rulemaking resulted, in part, from recommendations from the Aviation Rulemaking Committee for parts 14 CFR 135/125 and covers pilot crew, equipment, training, and dispatch requirements for the safe operation of this new generation airplane.

Timetable:

Action	Date	FR Cite
Terminated	08/27/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Alberta Brown, Air Transportation Division, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 267–8321

RIN: 2120–AI84

421. +AUTOMATIC DEPENDENT SURVEILLANCE—BROADCAST (ADS–B) EQUIPAGE MANDATE TO SUPPORT AIR TRAFFIC CONTROL SERVICE

Legal Authority: 49 USC 1155; 49 USC 40103; 49 USC 40113; 49 USC 40120; 49 USC 44101; 49 USC 44111; 49 USC 44701; 49 USC 44709; 49 USC 44711; 49 USC 44712; 49 USC 44715; 49 USC 44716; 49 USC 44717; 49 USC 44722; 49 USC 46306; 49 USC 46315; 49 USC 46316; 49 USC 46504; 49 USC 46506; 49 USC 47122; 49 USC 47508; 49 USC 47528 to 47531; 49 USC 106(g); Articles 12 and 29 of 61stat.1180; 49 USC 46507

Abstract: This rulemaking would add equipage requirements and performance standards for Automatic Dependent Surveillance-Broadcast (ADS-B) Out avionics on aircraft operating in specified classes of airspace within the U.S. National Airspace System. This action facilitates the use of ADS-B for aircraft surveillance by FAA and Department of Defense (DOD) air traffic controllers to safely and efficiently accommodate aircraft operations and the expected increase in demand for air transportation. This rule would also provide aircraft operators with a platform for additional flight applications and services.

Timetable:

Action	Date	FR Cite
NPRM	10/05/07	72 56947
NPRM Comment Period End	11/19/07	
NPRM Comment Period Extended	01/03/08	
Comment Period Extended	03/03/08	
NPRM Comment Period Reopened	10/02/08	73 57270
Comment Period End	11/03/08	
Final Action	05/28/10	75 30160
Technical Amendment	06/30/10	75 37712
Correction	06/30/10	75 37711
Final Action Effective	08/11/10	
Compliance Date	01/01/20	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Vincent Capezzuto, Federal Aviation Administration, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591
Phone: 202 385–8637
Email: vincent.capezzuto@faa.gov

RIN: 2120–AI92

BILLING CODE 4910—13—S

Department of Transportation (DOT)
Federal Motor Carrier Safety Administration (FMCSA)

Proposed Rule Stage

422. +UNIFIED REGISTRATION SYSTEM

Legal Authority: PL 104–88; 109 Stat 803, 888 (1995); 49 USC 13908; PL 109–159, sec 4304

Abstract: This rulemaking would replace three current identification and registration systems: the US DOT number identification system, the commercial registration system, and the financial responsibility system, with an online Federal unified registration system (URS). This program would serve as a clearinghouse and depository of information on, and identification of, brokers, freight forwarders, and others required to register with the Department of Transportation. The Agency is revising this rulemaking to address amendments directed by SAFETEA-LU. The replacement system for the Single State Registration System, which the ICC Termination Act originally directed be merged under URS, was addressed separately in RIN 2126-AB09. The cargo insurance portion of this rulemaking has been split off into RIN 2126-AB21.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/96	61 FR 43816
ANPRM Comment Period End	10/25/96	
NPRM	05/19/05	70 FR 28990
NPRM Comment Period End	08/17/05	
Supplemental NPRM	03/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Valerie Height, Management Analyst, Department of Transportation, Federal Motor Carrier Safety Administration, Office of Policy Plans and Regulation (MC–PRR), 1200 New Jersey Avenue SE., Washington, DC 20590
Phone: 202 366–0901
Email: valerie.height@dot.gov

RIN: 2126–AA22

423. +HOURS OF SERVICE

Regulatory Plan: This entry is Seq. No. 119 in part II of this issue of the **Federal Register**.

RIN: 2126–AB26

424. +DRIVERS OF COMMERCIAL VEHICLES: RESTRICTING THE USE OF CELLULAR PHONES (SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 120 in part II of this issue of the **Federal Register**.

RIN: 2126–AB29

Department of Transportation (DOT)
Federal Motor Carrier Safety Administration (FMCSA)

Final Rule Stage

425. BROKERS OF HOUSEHOLD GOODS TRANSPORTATION BY MOTOR VEHICLE

Legal Authority: 49 USC 13501; SAFETEA–LU sec 4212; 49 USC 13901; 49 USC 13902

Abstract: FMCSA amends its regulations to require brokers that arrange the transportation of household goods in interstate or foreign commerce for consumers comply with certain consumer protection requirements. Brokers must provide: their U.S. DOT number on their advertisements and internet web sites; estimates of expected moving charges and brokerage fees; FMCSA pamphlets containing tips for successful moves and the consumer's rights and responsibilities; and the broker's policies concerning deposits, cancellations, and refunds. This rulemaking is in response to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) and a petition for rulemaking from the American Moving and Storage Association. This rulemaking is intended to ensure that individual shippers who arrange for transportation of household goods through brokers receive necessary information regarding their rights and responsibilities in connection with interstate household goods moves.

Timetable:

Action	Date	FR Cite
ANPRM	12/22/04	69 FR 76664
ANPRM Comment Period End	02/22/05	
NPRM	02/08/07	72 FR 5947
NPRM Comment Period End	05/09/07	
Final Rule	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Brodie Mack, Lead Transportation Specialist, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590
Phone: 202 385–8045
Email: brodie.mac@dot.gov

RIN: 2126–AA84

426. +NATIONAL REGISTRY OF CERTIFIED MEDICAL EXAMINERS

Regulatory Plan: This entry is Seq. No. 121 in part II of this issue of the **Federal Register**.

RIN: 2126–AA97

427. +COMMERCIAL DRIVER'S LICENSE TESTING AND COMMERCIAL LEARNER'S PERMIT STANDARDS

Legal Authority: PL 109–347, sec 703; 49 USC 31102; PL 105—178, 112 Stat 414 (1998); PL 99—570, title XII, 100 Stat.3207 (1086); PL 102—240, sec 4007(a)(1), Stat 1914, 2151; PL 109—59 (2005), sec 4122; 49 USC 31136

Abstract: This rulemaking would establish revisions to the commercial driver's license knowledge and skills testing standards as required by section 4019 of TEA-21, implement fraud detection and prevention initiatives at the State driver licensing agencies as required by the SAFE Port Act of 2006, and establish new minimum Federal standards for States to issue commercial learner's permits (CLPs), based in part on the requirements of section 4122 of SAFETEA-LU. In addition to ensuring the applicant has the appropriate knowledge and skills to operate a commercial motor vehicle, this rule would establish the minimum information that must be on the CLP document and the electronic driver's record. The rule would also establish maximum issuance and renewal periods, establish a minimum age limit, address issues related to a driver's State of Domicile, and incorporate previous

DOT—FMCSA **Final Rule Stage**

regulatory guidance into the Federal regulations. This rule would also address issues raised in the SAFE Port Act.

Timetable:

Action	Date	FR Cite
NPRM	04/09/08	73 FR 19282
NPRM Comment Period Extended	06/09/08	73 FR 32520
NPRM Comment Period End	06/09/08	
Second NPRM Comment Period End	07/09/08	
Final Rule	02/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Robert Redmond, Senior Transportation Specialist, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590
Phone: 202 366–5014
Email: robert.redmond@dot.gov

RIN: 2126–AB02

Department of Transportation (DOT) — Long-Term Actions
Federal Motor Carrier Safety Administration (FMCSA)

428. +SAFETY MONITORING SYSTEM AND COMPLIANCE INITIATIVE FOR MEXICO–DOMICILED MOTOR CARRIERS OPERATING IN THE UNITED STATES

Legal Authority: PL 107–87, sec 350; 49 USC 113; 49 USC 31136; 49 USC 31144; 49 USC 31502; 49 USC 504; 49 USC 5113; 49 USC 521(b)(5)(A)

Abstract: This rule would implement a safety monitoring system and compliance initiative designed to evaluate the continuing safety fitness of all Mexico-domiciled carriers within 18 months after receiving a provisional Certificate of Registration or provisional authority to operate in the United States. It also would establish suspension and revocation procedures for provisional Certificates of Registration and operating authority, and incorporate criteria to be used by FMCSA in evaluating whether Mexico-domiciled carriers exercise basic safety management controls. The interim rule included requirements that were not proposed in the NPRM but which are necessary to comply with the FY-2002 DOT Appropriations Act. On January 16, 2003, the Ninth Circuit Court of Appeals remanded this rule, along with two other NAFTA-related rules, to the agency, requiring a full environmental impact statement and an analysis required by the Clean Air Act. On June 7, 2004, the Supreme Court reversed the Ninth Circuit and remanded the case, holding that FMCSA is not required to prepare the environmental documents. FMCSA originally planned to publish a final rule by November 28, 2003. FMCSA will determine the next steps to be taken after enactment of any pending legislation authorizing cross border trucking.

Timetable:

Action	Date	FR Cite
NPRM	05/03/01	66 FR 22415
NPRM Comment Period End	07/02/01	
Interim Final Rule	03/19/02	67 FR 12758
Interim Final Rule Comment Period End	04/18/02	
Interim Final Rule Effective	05/03/02	
Notice of Intent To Prepare an EIS	08/26/03	68 FR 51322
EIS Public Scoping Meetings	10/08/03	68 FR 58162
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dominick Spataro, Chief, Borders Division, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590
Phone: 202 266–2995
Email: dom.spataro@dot.gov

RIN: 2126–AA35

Department of Transportation (DOT) — Completed Actions
Federal Motor Carrier Safety Administration (FMCSA)

429. +CARGO INSURANCE FOR PROPERTY LOSS OR DAMAGE

Legal Authority: 49 USC 13906

Abstract: This final rule would eliminate the requirement for most for-hire motor carriers of property and freight forwarders to maintain cargo insurance in prescribed minimum amounts and file evidence of this insurance with FMCSA. Household goods motor carriers and household goods freight forwarders would continue to be subject to this cargo insurance requirement. This rule was split from RIN 2126-AA22.

Timetable:

Action	Date	FR Cite
Final Rule	06/22/10	75 FR 35318
Final Rule Effective	03/21/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Brodie Mack, Lead Transportation Specialist, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590
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RIN: 2126–AB21

BILLING CODE 4910—EX—S

Department of Transportation (DOT)
National Highway Traffic Safety Administration (NHTSA)

Final Rule Stage

430. +EJECTION MITIGATION

Regulatory Plan: This entry is Seq. No. 125 in part II of this issue of the **Federal Register**.

RIN: 2127–AK23

Department of Transportation (DOT)
National Highway Traffic Safety Administration (NHTSA)

Completed Actions

431. +PASSENGER CAR AND LIGHT TRUCK CORPORATE AVERAGE FUEL ECONOMY STANDARDS MYS 2012–2016

Legal Authority: 49 USC 32902; delegation of authority at 49 CFR 1.50

Abstract: This rulemaking would address Corporate Average Fuel Economy (CAFE) standards for light trucks and passenger cars for model years 2012—2016. CAFE standards must be set at least 18 months prior to the start of a model year.

Timetable:

Action	Date	FR Cite
NPRM	09/28/09	74 FR 49453
NPRM Comment Period End	11/27/09	
Final Rule	05/07/10	75 FR 25324
Final Rule Effective	07/06/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Stephen Wood, Director, Rulemaking Division, Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590
Phone: 202 366–2992
Email: steve.wood@nhtsa.dot.gov

RIN: 2127–AK50

BILLING CODE 4910—59—S

Department of Transportation (DOT)
Federal Railroad Administration (FRA)

Proposed Rule Stage

432. +HOURS OF SERVICE: PASSENGER TRAIN EMPLOYEES (RULEMAKING RESULTING FROM A SECTION 610 REVIEW)

Regulatory Plan: This entry is Seq. No. 126 in part II of this issue of the **Federal Register**.

RIN: 2130–AC15

Department of Transportation (DOT)
Federal Railroad Administration (FRA)

Completed Actions

433. +POSITIVE TRAIN CONTROL

Legal Authority: PL 110—432, sec 104 (Codified at 49 USC 20157); Rail Safety Improvement Act of 2008

Abstract: This rulemaking would regulate the submission of Positive Train Control plans; the implementation of the Positive Train Control Systems; and the qualification, installation, maintenance and use of the these systems required under 49 USC 20157 or specifically required by the Federal Railroad Administration. A Final Rule with Request for comments was issued on 01/16/2010 and FRA is currently preparing responses to the comments received.

Timetable:

Action	Date	FR Cite
NPRM	07/21/09	74 FR 35950
NPRM Comment Period End	08/20/09	
Final Rule; Request for Comments	01/15/10	75 FR 2598
Final Rule Effective	03/16/10	
Final Rule	09/27/10	75 FR 59108
Final Rule Effective	11/26/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590
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RIN: 2130–AC03

BILLING CODE 4910—06—S

Department of Transportation (DOT)
Federal Transit Administration (FTA)

Proposed Rule Stage

434. +CAPITAL PROJECT MANAGEMENT

Legal Authority: 49 USC 5327(e)

Abstract: The Federal Transit Administration (FTA) is proposing to transform its Project Management Oversight rule at 49 CFR part 633 into a Project Management rule governing all major capital projects funded under 49 U.S.C. chapter 53. As the first step in the rulemaking process, this rulemaking will obtain the views of the industry, other stakeholders, and the pubic on a number of subjects, including, specifically, the appropriate scope of such a rule; the definition of ''major capital project''; the technical capacity and capability of project sponsors; the requirements for Project Management Plans; readiness criteria for major capital projects; the role of risk assessments in project development; and financial plans for major capital projects.

Timetable:

Action	Date	FR Cite
ANPRM	09/10/09	74 FR 46515
ANPRM Comment Period End	11/09/09	
ANPRM Comment Period Extended	11/10/09	74 FR 55279
ANPRM Extended Comment Period End	01/08/10	
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jayme Blakesley, Attorney–Advisor, Department of Transportation, Federal Transit Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590
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RIN: 2132–AA92

BILLING CODE 4910—57—S

Department of Transportation (DOT)
Pipeline and Hazardous Materials Safety Administration (PHMSA)

Final Rule Stage

435. +HAZARDOUS MATERIALS: REVISIONS TO REQUIREMENTS FOR THE TRANSPORTATION OF LITHIUM BATTERIES

Legal Authority: 49 USC 5101 et seq

Abstract: This rulemaking would amend the Hazardous Materials Regulations to comprehensively address the safe transportation of lithium cells and batteries. The intent of the rulemaking is to strengthen the current regulatory framework by imposing more effective safeguards, including design testing to address risks related to internal short circuits, and enhanced packaging, hazard communication, and operational measures for various types and sizes of lithium batteries in specific transportation contexts. The rulemaking responds to several recommendations issued by the National Transportation Safety Board.

Timetable:

Action	Date	FR Cite
NPRM	01/11/10	75 FR 1302
NPRM Comment Period End	03/12/10	
Final Rule	01/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Kevin Leary, Transportation Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590
Phone: 202 366–8553
Email: kevin.leary@dot.gov

RIN: 2137–AE44

BILLING CODE 4910—60—S

Department of Transportation (DOT)
Maritime Administration (MARAD)

Proposed Rule Stage

436. +CARGO PREFERENCE—COMPROMISE, ASSESSMENT, MITIGATION, SETTLEMENT & COLLECTION OF CIVIL PENALTIES

Legal Authority: PL 110—417

Abstract: This rulemaking would establish part 383 of the Cargo Preference regulations. This rulemaking would cover Public Law 110-417, section 3511 National Defense Authorization Act for FY2009 statutory changes to the cargo preference rules, which have not been substantially revised since 1971. The rulemaking also would include compromise, assessment, mitigation, settlement, and collection of civil penalties.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Christine Gurland, Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590
Phone: 202 366–5157
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RIN: 2133–AB75

[FR Doc. 2010–30462 Filed 12–17–10; 8:45 am]

BILLING CODE 4910–81–S

Federal Register

Monday,
December 20, 2010

Part XIV

Department of the Treasury

Semiannual Regulatory Agenda

DEPARTMENT OF THE TREASURY (TREAS)

DEPARTMENT OF THE TREASURY

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda and Fiscal Year 2011 Regulatory Plan

AGENCY: Department of the Treasury.

ACTION: Semiannual regulatory agenda and annual regulatory plan.

SUMMARY: This notice is given pursuant to the requirements of the Regulatory Flexibility Act and Executive Order (E.O.) 12866 ''Regulatory Planning and Review'', which require the publication by the Department of a semiannual agenda of regulations. EO 12866 also requires the publication by the Department of a regulatory plan for fiscal year 2011.

FOR FURTHER INFORMATION CONTACT: The Agency Contact identified in the item relating to that regulation.

SUPPLEMENTARY INFORMATION: The semiannual regulatory agenda includes regulations that the Department has issued or expects to issue and rules currently in effect that are under departmental or bureau review. For this edition of the regulatory agenda, the most important significant regulatory actions and a Statement of Regulatory Priorities are included in The Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** that includes the Unified Agenda.

Beginning with the fall 2007 edition, the Internet is the primary medium for disseminating the Unified Agenda. The complete Unified Agenda will be available online at www.reginfo.gov, in a format that offers users an enhanced ability to obtain information from the Agenda database. Because publication in the **Federal Register** is mandated for the regulatory flexibility agenda required by the Regulatory Flexibility Act (5 U.S.C. 602), Treasury's printed agenda entries include only:

(1) Rules that are in the regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rule that has been identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years, including Treasury's regulatory plan.

The semiannual agenda and The Regulatory Plan of the Department of the Treasury conform to the Unified Agenda format developed by the Regulatory Information Service Center (RISC).

Dated: September 13, 2010.

Richard G. Lepley,

Deputy Assistant General Counsel for General Law and Regulation.

Financial Crimes Enforcement Network—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
437	Amendment to the Bank Secrecy Act Regulations—Definitions and Other Regulations Relating to Prepaid Access	1506–AB07

Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
438	S.A.F.E. Mortgage Licensing Act	1557–AD23

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
439	User Fees Relating to Enrollment, Registered Tax Return Preparers, and Continuing Education Programs	1545–BJ65

Internal Revenue Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
440	Indoor Tanning Services	1545–BJ40

TREAS

Internal Revenue Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
441	Regulations Governing Practice Before the IRS—Tax Return Preparers	1545–BJ17
442	Indoor Tanning Services	1545–BJ41

Department of the Treasury (TREAS) — Final Rule Stage
Financial Crimes Enforcement Network (FINCEN)

437. AMENDMENT TO THE BANK SECRECY ACT REGULATIONS—DEFINITIONS AND OTHER REGULATIONS RELATING TO PREPAID ACCESS

Legal Authority: 12 USC 1829b; 12 USC 1951 to 1959; 31 USC 5311 to 5314; 31 USC 5316 to 5332

Abstract: The Financial Crimes Enforcement Network (FinCEN), a bureau of the Department of the Treasury (Treasury), is proposing to revise the Bank Secrecy Act (BSA) regulations applicable to Money Services Businesses to include stored value or prepaid access. In this proposed rulemaking, we are reviewing the stored value/prepaid access regulatory framework with a focus on developing appropriate BSA regulatory oversight without impeding continued development of the industry, as well as improving the ability of FinCEN, other regulators and law enforcement to safeguard the U.S. financial system from the abuses of terrorist financing, money laundering, and other financial crime.

The proposed changes are intended to address regulatory gaps that have resulted from the proliferation of prepaid innovations over the last 10 years and their increasing use as an accepted payment method. If these gaps are not addressed, there is increased potential for the use of prepaid access as a means for furthering money laundering, terrorist financing, and other illicit transactions through the financial system. This would significantly undermine many of the efforts previously taken by government and industry to safeguard the financial system through the application of BSA requirements to other areas of the financial sector.

While seeking to address vulnerabilities existing currently in the prepaid industry, FinCEN also intends for this proposed rule to provide the necessary flexibility to address new developments in technology, markets, and consumer behavior. This is important, in order to avoid creating artificial limits on a mechanism that can be an avenue to meet the financial services needs of the unbanked and the underbanked.

This rule proposes to subject certain providers of prepaid access to a comprehensive BSA regime. To make BSA reports and records valuable and meaningful, the proposed changes impose obligations on the party within any given prepaid access transaction chain with predominant oversight and control, as well as others in a unique position to provide meaningful information to regulators and law enforcement. More specifically, the proposed changes include the following: (1) Renaming ''stored value'' as ''prepaid access'' and defining that term; (2) deleting the terms ''issuer and redeemer'' of stored value; (3) imposing registration, suspicious activity reporting and customer information recordkeeping requirements on providers of prepaid access, and new transactional recordkeeping requirements on both providers and sellers of prepaid access; and (4) exempting certain categories of prepaid access products and services posing lower risks of money laundering and terrorist financing from certain requirements.

FinCEN recognizes that the Credit CARD Act of 2009 mandated the increased regulation of prepaid access, as well as the consideration of the issue of international transport, and we will address these mandates, either through regulatory text or solicitation of comment in this rulemaking. In the course of our regulatory research into the operation of the prepaid industry, we have encountered a number of distinct issues, such as the appropriate obligations of payment networks and financial transparency at the borders, and we anticipate future rulemakings in these areas. We will seek to phase in any additional requirements, however, as the most prudent course of action for an evolving segment of the money services business (MSB) community.

Timetable:

Action	Date	FR Cite
NPRM	06/28/10	75 FR 36589
NPRM Comment Period End	07/28/10	
Extend Comment Period	08/28/10	75 FR 41788
Final Action	04/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Elizbzeth Baltierra, Regulatory Policy Project Officer, Department of the Treasury, Financial Crimes Enforcement Network, PO Box 39, Vienna, VA 22183
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Email: elizabeth.baltierra@fincen.gov

Koko (Nettie) Ives, Department of the Treasury, Financial Crimes Enforcement Network, Suite 4600, 1099 14th Street NW., Washington, DC 20005
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RIN: 1506–AB07

BILLING CODE 4810—33—S

Department of the Treasury (TREAS)
Comptroller of the Currency (OCC)

Completed Actions

438. S.A.F.E. MORTGAGE LICENSING ACT

Legal Authority: 12 USC 1 et seq; 12 USC 29; 12 USC 93a; 12 USC 371; 12 USC 1701j–3; 12 USC 1828(o); 12 USC 3331 et seq

Abstract: These regulations implement the Federal registration requirement imposed by the S.A.F.E. Mortgage Licensing Act, title V of the Housing and Economic Recovery Act of 2008 (Pub. L. 110-289, 122 Stat. 2654 (2008)) with respect to national banks and their operating subsidiaries. They are being issued by the OCC, FRB, FDIC, OTS, NCUA, and Farm Credit Administration.

Completed:

Reason	Date	FR Cite
Final Action	07/28/10	75 FR 44656
Final Action Effective	10/01/10	
Correction	08/23/10	75 FR 51623

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Heidi M. Thomas
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RIN: 1557–AD23

BILLING CODE 4830—01—S

Department of the Treasury (TREAS)
Internal Revenue Service (IRS)

Proposed Rule Stage

439. ● USER FEES RELATING TO ENROLLMENT, REGISTERED TAX RETURN PREPARERS, AND CONTINUING EDUCATION PROGRAMS

Legal Authority: 31 USC 9701

Abstract: These proposed regulations will update and separate the user fees regarding enrolled agents and enrolled retirement plan agents. These regulations will also impose user fees to take the competency examination to become a registered tax return preparer and to provide continuing education programs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Emily M. Lesniak, Attorney, Department of the Treasury, Internal Revenue Service, Room 5137, 1111 Constitution Avenue NW., Washington, DC 20224
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Fax: 202 622–1585
Email: emily.m.lesniak@irscounsel.treas.gov

RIN: 1545–BJ65

Department of the Treasury (TREAS)
Internal Revenue Service (IRS)

Final Rule Stage

440. ● INDOOR TANNING SERVICES

Legal Authority: 26 USC 7805

Abstract: Proposed regulations provide guidance on the indoor tanning services tax made by the Patient Protection and Affordable Care Act of 2010, affecting users and providers of indoor tanning services.

Timetable:

Action	Date	FR Cite
NPRM	06/15/10	75 FR 33740
NPRM Comment Period End	09/13/10	
Final Action	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Taylor Cortright, Attorney, Department of the Treasury, Internal Revenue Service, Room 5314, 1111 Constitution Avenue NW., Washington, DC 20224
Phone: 202 622–3130
Fax: 202 622–4537
Email: taylor.cortright@irscounsel.treas.gov

RIN: 1545–BJ40

Department of the Treasury (TREAS)
Internal Revenue Service (IRS)

Completed Actions

441. REGULATIONS GOVERNING PRACTICE BEFORE THE IRS—TAX RETURN PREPARERS

Legal Authority: 31 USC 330

Abstract: These proposed regulations modify the general standards of practice for tax return preparers under Circular 230.

Completed:

Reason	Date	FR Cite
Withdrawn	08/10/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Matthew S. Cooper
Phone: 202 622–4570
Fax: 202 622–7330
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RIN: 1545–BJ17

442. ● INDOOR TANNING SERVICES

Legal Authority: 26 USC 7805

Abstract: Temporary regulations provide guidance on the indoor tanning services tax made by the Patient Protection and Affordable Care Act of 2010, affecting users and providers of indoor tanning services.

Timetable:

Action	Date	FR Cite
Temporary Regulations	06/15/10	75 FR 33683

Regulatory Flexibility Analysis Required: Yes

TREAS—IRS **Completed Actions**

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RIN: 1545–BJ41

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Federal Register

Monday,
December 20, 2010

Part XV

Environmental Protection Agency

Semiannual Regulatory Agenda

ENVIRONMENTAL PROTECTION AGENCY (EPA)

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[9134-3]

EPA-HQ-OA-2007-1172

EPA-HQ-OW-2010-0169

EPA-HQ-OW-2010-0166

EPA-HQ-OAR-2010-0052

EPA-HQ-OW-2010-0728

Fall 2010 Regulatory Agenda

AGENCY: Environmental Protection Agency.

ACTION: Semiannual regulatory flexibility agenda and semiannual regulatory agenda.

SUMMARY: The Environmental Protection Agency (EPA) publishes the semiannual regulatory agenda online (the e-Agenda) at www.reginfo.gov to update the public about:

- Regulations and major policies currently under development,
- Reviews of existing regulations and major policies, and
- Rules and major policymakings completed or canceled since the last agenda.

Definitions:

''E-Agenda,'' ''online regulatory agenda,'' and ''semiannual regulatory agenda'' all refer to the same comprehensive collection of information that until 2007 was published in the **Federal Register** but which now is only available through an online database.

''Regulatory Flexibility Agenda'' refers to a document that contains information about regulations that may have a significant impact on a substantial number of small entities. It continues to be published in the **Federal Register** because that is what is required by the 1980 Regulatory Flexibility Act.

''Monthly Action Initiation List'' (AIL) refers to a list that EPA posts online each month of the regulations newly approved for development.

''Unified Regulatory Agenda'' refers to the collection of all agencies' agendas with an introduction prepared by the Regulatory Information Service Center.

''Regulatory Agenda preamble'' refers to the document you are reading now. It appears as part of the Regulatory Flexibility Agenda and introduces both the Regulatory Flexibility Agenda and the e-Agenda.

''Rulemaking Gateway'' refers to a new online portal to EPA's priority rules with earlier and more frequently updated information about Agency regulations. More information about the Rulemaking Gateway appears in section H of this preamble.

FOR FURTHER INFORMATION CONTACT: If you have questions or comments about a particular action, please get in touch with the agency contact listed in each agenda entry. If you have general questions about the semiannual regulatory agenda, please contact: Phil Schwartz (schwartz.philip@epa.gov; 202-564-6564) or Caryn Muellerleile (muellerleile.caryn@epa.gov; 202-564-2855).

TO BE PLACED ON A MAILING LIST FOR UPDATED INFORMATION ON RULES UNDER DEVELOPMENT: If you would like to receive an e-mail with a link to new semiannual regulatory agendas as soon as they are published, please send an e-mail message with your name and address to: nscep@bps-lmit.com and put ''E-Regulatory Agenda: Electronic Copy'' in the subject line.

If you would like to regularly receive information about the rules newly approved for development, sign up for our monthly Action Initiation List by going to http://www.epa.gov/lawsregs/search/ail.html#notification and completing the steps listed there.

You can track progress on various aspects of EPA's priority rulemakings by signing up for RSS feeds from the Rulemaking Gateway at http://yosemite.epa.gov/opei/RuleGate.nsf/content/getalerts.html?opendocument.

If you would like to receive a hard copy of the semiannual agenda about 2 to 3 months after publication, call 800-490-9198 or send an e-mail with your name and complete address to: nscep@bps-lmit.com and put ''Regulatory Agenda Hard Copy'' in the subject line. We are ending distribution of hard copies of the Agenda after the Fall 2010 edition. You will still, however, be able to download and print a Federal Register style version of the EPA's Agenda at www.epa.gov/lawsregs/search/regagenda.html.

SUPPLEMENTARY INFORMATION:

Table of Contents

A. Map of Regulatory Agenda Type Information

Type of Information	Online Locations	Federal Register Location
Semiannual Regulatory Agenda	www.reginfo.gov/, www.regulations.gov, and http://www.epa.gov/lawsregs/search/regagenda.html	Not in FR

EPA

Type of Information	Online Locations	Federal Register Location
FY 2011 Regulatory Plan	Go to: Regulations.gov and put "EPA-HQ-OA-2010-0915-0002" in the key word box	Part II of today's issue
Semiannual Regulatory Flexibility Agenda	www.reginfo.gov/, www.regulations.gov, and http://www.epa.gov/lawsregs/search/regagenda.html	Part XII of today's issue
Monthly Action Initiation List	http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail& d=EPA-HQ-OA-2008-0265 and http://www.epa.gov/lawsregs/search/ail.html	Not in FR
Rulemaking Gateway	www.epa.gov/rulemaking/	Not in FR

B. What Are EPA's Regulatory Priorities, and What Key Principles, Statutes, and Executive Orders Guide Our Rule and Policymaking Process?

Priorities

To guide the Agency's efforts in 2011 and subsequent years, Administrator Lisa P. Jackson has established the following seven guiding principles. For a more extensive discussion of these principles please see our FY 2011 Regulatory Plan.

1. Taking Action on Climate Change: In 2009 EPA finalized an endangerment finding on greenhouse gases; issued the first national rules to reduce greenhouse-gas emissions under the Clean Air Act; and initiated a national reporting system for greenhouse gas emissions. In 2010, EPA and NHTSA announced a joint final rule establishing a historic national program that will dramatically reduce greenhouse gas emissions and improve fuel economy for new cars and trucks sold in the United States. The mobile sources addressed in that regulatory action — light-duty vehicles and heavy-duty vehicles —accounted for 23 percent of all U.S. greenhouse gas emissions in 2007. While EPA stands ready to help Congress craft strong, science-based climate legislation that addresses the spectrum of issues, the Agency will deploy existing regulatory tools as they are available and warranted.

2. Improving Air Quality: Since passage of the Clean Air Act Amendments in 1990, nationwide air quality has improved significantly for the six criteria air pollutants for which there are national ambient air quality standards. Despite this progress, about 127 million Americans lived in counties with air considered unhealthy in 2008. Long-term exposure to air pollution can cause cancer and damage to the immune, neurological, reproductive, cardiovascular, and respiratory systems. Because people spend much of their lives indoors, the quality of indoor air is also a major concern.

3. Assuring the Safety of Chemicals: One of EPA's highest priorities is to make significant and long overdue progress in assuring the safety of chemicals. On September 29, 2009, Administrator Jackson announced clear principles to guide Congress in writing a new chemical risk management law that will fix the weaknesses in Toxic Substances Control Act (TSCA). EPA is shifting its focus to addressing high-concern chemicals and filling data gaps on widely-produced chemicals in commerce.

4. Cleaning Up Our Communities: In 2009, EPA accelerated its Superfund program and confronted significant local environmental challenges like the asbestos Public Health Emergency in Libby, Montana and the coal ash spill in Kingston, Tennessee.

5. Protecting America's Waters: America's water bodies are imperiled as never before. Water quality and enforcement programs face complex challenges, from nutrient loadings and storm water runoff to invasive species and drinking water contaminants. These challenges demand both traditional and innovative strategies.

6. Expanding the Conversation on Environmentalism and Working for Environmental Justice: Environmentalism has been described as a conversation that we all must have because it is about protecting people in the places they live, work, and raise families. The Agency is now focusing on expanding the conversation to include new stakeholders and involve communities in more direct ways.

7. Building Strong State and Tribal Partnerships: EPA's success depends more than ever on working with increasingly capable and environmentally conscious partners. The Agency works with the States and Tribes, business and industry, nonprofit organizations, environmental groups, and educational institutions in a wide variety of collaborative efforts. States and tribal nations bear important responsibilities for the day-to-day mission of environmental protection.

Other Key Principles, Statutes, and Executive Orders Guiding Our Rule and Policymaking Process

EPA's strength has always been our ability to adapt to the constantly changing face of environmental protection as our economy and society evolve, and science teaches us more about how humans interact with and affect the natural world. Now, more than ever, EPA must be innovative and forward looking because the environmental challenges faced by Americans all across our country are unprecedented.

Besides the fundamental environmental laws authorizing EPA actions such as the Clean Air Act and Clean Water Act, there are legal requirements that apply to the issuance of regulations that are generally contained in the Administrative Procedure Act, the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act, the Unfunded Mandates Reform Act, the Paperwork Reduction Act, the National Technology Transfer and Advancement Act, and the

Congressional Review Act. We also must meet a number of requirements contained in Executive Orders 12866 (Regulatory Planning and Review; 58 FR 51735; October 4, 1993), 12898 (Environmental Justice; 59 FR 7629; February 16, 1994), 13045 (Children's Health Protection; 62 FR 19885; April 23, 1997), 13132 (Federalism; 64 FR 43255; August 10, 1999), 13175 (Consultation and Coordination with Indian Tribal Governments; 65 FR 67249; November 9, 2000), 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use; 66 FR 28355; May 22, 2001).

C. How Can You Be Involved in EPA's Rule and Policymaking Process?

You can make your voice heard by getting in touch with the contact person provided in each agenda entry. We urge you to participate as early in the process as possible. You may also participate by commenting on proposed rules that we publish in the **Federal Register** (FR).

Instructions on how to submit your comments are provided in each of our Notices of Proposed Rulemaking (NPRMs). To be most effective, comments should contain information and data that support your position, and you also should explain why we should incorporate your suggestion in the rule or nonregulatory action. You can be particularly helpful and persuasive if you provide examples to illustrate your concerns and offer specific alternatives.

We believe our actions will be more cost-effective and protective if our development process includes stakeholders working with us to identify the most practical and effective solutions to problems, and we stress this point most strongly in all of our training programs for rule and policy developers. Democracy gives real power to individual citizens, but with that power comes responsibility. We urge you to become involved in EPA's rule and policymaking process. For more information about public involvement in EPA activities, please visit www.epa.gov/publicinvolvement.

D. What Actions Are Included in the E-Agenda and the Regulatory Flexibility Agenda?

EPA includes regulations and certain major policy documents in the e-Agenda. However, there is no legal significance to the omission of an item from the agenda, and we generally do not include the following categories of actions:

- Administrative actions such as delegations of authority, changes of address, or phone numbers;
- Under the Clean Air Act: Revisions to State Implementation Plans; Equivalent Methods for Ambient Air Quality Monitoring; Deletions from the New Source Performance Standards source categories list; Delegations of Authority to States; Area Designations for Air Quality Planning Purposes;
- Under the Federal Insecticide, Fungicide, and Rodenticide Act: Registration-related decisions, actions affecting the status of currently registered pesticides, and data call-ins;
- Under the Federal Food, Drug, and Cosmetic Act: Actions regarding pesticide tolerances and food additive regulations;
- Under the Resource Conservation and Recovery Act: Authorization of State solid waste management plans; hazardous waste delisting petitions;
- Under the Clean Water Act: State Water Quality Standards; deletions from the section 307(a) list of toxic pollutants; suspensions of toxic testing requirements under the National Pollutant Discharge Elimination System (NPDES); delegations of NPDES authority to States;
- Under the Safe Drinking Water Act: Actions on State underground injection control programs.

The Regulatory Flexibility Agenda normally includes:

- Actions likely to have a significant economic impact on a substantial number of small entities.
- Rules the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act. There are four rules for 610 reviews in 2010.

E. How Is the E-Agenda Organized?

You can now choose how both the www.reginfo.gov and www.regulations.gov versions of the e-Agenda are organized. Current choices include: EPA subagency; stage of rulemaking, explained below; alphabetically by title; and by the Regulation Identifier Number (RIN), which is assigned sequentially when an action is added to the agenda.

Stages of rulemaking include:

1. Prerulemaking—Prerulemaking actions are generally intended to determine whether EPA should initiate rulemaking. Prerulemakings may include anything that influences or leads to rulemaking, such as Advance Notices of Proposed Rulemaking (ANPRMs studies or analyses of the possible need for regulatory action, announcement of reviews of existing regulations required under section 610 of the Regulatory Flexibility Act, requests for public comment on the need for regulatory action, or important preregulatory policy proposals).

2. Proposed Rule—This section includes EPA rulemaking actions that are within a year of proposal (publication of Notices of Proposed Rulemakings (NPRMs)).

3. Final Rule—This section includes rules that will be issued as a final rule within a year.

4. Long-Term Actions—This section includes rulemakings for which the next scheduled regulatory action is after October 2011. We urge you to explore becoming involved even if an action is listed in the Long-Term category. By the time an action is listed in the Proposed Rules category you may have missed the opportunity to participate in certain public meetings or policy dialogues.

5. Completed Actions—This section contains actions that have been promulgated and published in the **Federal Register** since publication of the spring 2010. It also includes actions that EPA is no longer considering. If an action appears in the completed section, it will not appear in future agendas unless we decide to initiate action again, in which case it will appear as a new entry. EPA also announces the results of the Regulatory Flexibility Act section 610 reviews in this section of the agenda.

F. What Information Is in the Regulatory Flexibility Agenda and the E-Agenda?

Regulatory Flexibility Agenda entries include:

Sequence Number, RIN, Title, Description, Statutory Authority, Section 610 Review, if applicable, Regulatory Flexibility Analysis Required, Schedule, Contact Person.

E-Agenda entries include:

Title: Titles for new entries (those that have not appeared in previous agendas) are preceded by a bullet (•). The

notation ''Section 610 Review'' follows the title if we are reviewing the rule as part of our periodic review of existing rules under section 610 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 610).

Priority: Entries are placed into one of five categories described below. OMB reviews all significant rules including both of the first two categories, ''economically significant'' and ''other significant.''

Economically Significant: Under E.O. 12866, a rulemaking action that may have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Other Significant: A rulemaking that is not economically significant but is considered significant for other reasons. This category includes rules that may:

1. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

2. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients; or

3. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles in Executive Order 12866.

Substantive, Nonsignificant: A rulemaking that has substantive impacts but is not Significant, Routine and Frequent, or Informational/Administrative/Other.

Routine and Frequent: A rulemaking that is a specific case of a recurring application of a regulatory program in the Code of Federal Regulations (e.g., certain State Implementation Plans, National Priority List updates, Significant New Use Rules, State Hazardous Waste Management Program actions, and Tolerance Exemptions). If an action that would normally be classified Routine and Frequent is reviewed by the Office of Management and Budget under E.O. 12866, then we would classify the action as either ''Economically Significant'' or ''Other Significant.''

Informational/Administrative/Other: An action that is primarily informational or pertains to an action outside the scope of E.O. 12866.

Also, if we believe that a rule may be ''Major'' as defined in the Congressional Review Act (5 U.S.C. 801, *et seq.*) because it is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in this law, we indicate this under the ''Priority'' heading with the statement ''Major under 5 USC 801.''

Legal Authority: The sections of the United States Code (USC), Public Law (PL), Executive Order (EO), or common name of the law that authorizes the regulatory action.

CFR Citation: The sections of the Code of Federal Regulations that would be affected by the action.

Legal Deadline: An indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to a Notice of Proposed Rulemaking, a Final Action, or some other action.

Abstract: A brief description of the problem the action will address.

Timetable: The dates (and citations) that documents for this action were published in the **Federal Register** and, where possible, a projected date for the next step. Projected publication dates frequently change during the course of developing an action. The projections in the agenda are our best estimates as of the date we submit the agenda for publication. For some entries, the timetable indicates that the date of the next action is ''to be determined.''

Regulatory Flexibility Analysis Required: Indicates whether EPA has prepared or anticipates that it will be preparing a regulatory flexibility analysis under section 603 or 604 of the RFA. Generally, such an analysis is required for proposed or final rules subject to the RFA that EPA believes may have a significant economic impact on a substantial number of small entities.

Small Entities Affected: Indicates whether we expect the rule to have any effect on small businesses, small governments, or small nonprofit organizations.

Government Levels Affected: Indicates whether we expect the rule to have any effect on levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Federalism Implications: Indicates whether the action is expected to have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Unfunded Mandates: Section 202 of the Unfunded Mandates Reform Act generally requires an assessment of anticipated costs and benefits if a rule includes a mandate that may result in expenditures of more than $100 million in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. If we expect to exceed this $100 million threshold, we note it in this section.

Energy Impacts: Indicates whether the action is a significant energy action under E.O. 13211.

International Trade Impacts: Indicates whether the action is likely to have international trade or investment effects, or otherwise be of international interest.

Agency Contact: The name, address, phone number, and e-mail address, if available, of a person who is knowledgeable about the regulation.

Additional Information: Other information about the action including docket information.

URLs: For some of our actions, we include the Internet addresses for reading copies of rulemaking documents, submitting comments on proposals, and getting more information about the rulemaking and the program of which it is a part. (Note: To submit comments on proposals, you can go to our electronic docket, which is at www.regulations.gov. Once there, follow the online instructions to access the docket and submit comments. A docket identification (ID) number will assist in the search for materials. We include this number in the additional information section of many of the agenda entries that have already been proposed.)

RIN: The Regulation Identifier Number is used by OMB to identify and track rulemakings. The first four digits of the RIN stand for the EPA office with lead responsibility for developing the action.

G. How Can I Find Out About Rulemakings That Start Up After the Regulatory Agenda Is Signed?

EPA posts monthly information of new rulemakings that the Agency's senior managers have decided that we

should develop. We also distribute this list via e-mail. You can see the current list, which we call the Action Initiation List at http://www.epa.gov/lawsregs/search/ail.html where you will also find information about how to get an e-mail notification when a new list is posted.

H. What Tools for Mining Regulatory Agenda Data and for Finding More About EPA Rules and Policies Are Available at Reginfo.gov, EPA.gov, and Regulations.gov?

1. The http://www.reginfo.gov/ Searchable Database

The Regulatory Information Service Center and Office of Information and Regulatory Affairs have revised a Federal regulatory dashboard and continue to allow users to view the Regulatory Agenda database (http://www.reginfo.gov/public/do/eAgendaMain), which includes powerful search, display, and data transmission options. At that site you can:

1. *See the preamble.* At the URL listed above for the Unified Agenda and Regulatory Plan, find ''Current Agenda Agency Preambles.'' Environmental Protection Agency is listed alphabetically under ''Other Executive Agencies.''

2. *Get a complete list of EPA's entries in the current edition of the Agenda.* Use the drop-down menu in the ''Select Agency'' box to find Environmental Protection Agency and ''Submit.''

3. *View the contents of all of EPA's entries in the current edition of the Agenda.* Choose ''Search'' from the ''Unified Agenda'' selection in the toolbar at the top of the page. Within the ''Search of Agenda/Regulatory Plan'' screen, open ''Advanced Search,'' then ''Continue.'' Select ''Environmental Protection Agency'' and ''Continue.'' Select ''Search,'' then ''View All RIN Data (Max 350).''

4. *Get a listing of entries with specified characteristics.* Follow the procedure described immediately above for viewing the contents of all entries, but on the screen entitled ''Advanced Search - Select Additional Fields,'' choose the characteristics you are seeking before ''Search.'' For example, if you wish to see a listing of all economically significant actions that may have a significant economic impact on a substantial number of small businesses, you would check ''Economically Significant'' under ''Priority'' and ''Business'' under ''Regulatory Flexibility Analysis Required.''

5. *Download the results of your searches in XML format.*

2. Subject Matter EPA Websites

Some actions listed in the Agenda include a URL that provides additional information.

3. Public Dockets

When EPA publishes either an Advanced Notice of Proposed Rulemaking (ANPRM) or a NPRM in the **Federal Register**, the Agency typically establishes a docket to accumulate materials throughout the development process for that rulemaking. The docket serves as the repository for the collection of documents or information related to a particular Agency action or activity. EPA most commonly uses dockets for rulemaking actions, but dockets may also be used for Regulatory Flexibility Act section 610 reviews of rules with significant economic impacts on a substantial number of small entities and for various nonrulemaking activities, such as **Federal Register** documents seeking public comments on draft guidance, policy statements, information collection requests under the Paperwork Reduction Act, and other non-rule activities. Docket information should be in that action's agenda entry. All of EPA's public dockets can be located at www.regulations.gov.

4. EPA's Rulemaking Gateway

EPA's Rulemaking Gateway (www.epa.gov/rulemaking/) serves as a portal to EPA's priority rules, providing you with earlier and more frequently updated information about Agency regulations than is provided by the Regulatory Agenda.

The Rulemaking Gateway provides information as soon as work begins and provides updates on a monthly basis as new information becomes available. Time-sensitive information, such as notice of a public meeting, is updated on a daily basis. Not all of EPA's Regulatory Agenda entries appear on the Rulemaking Gateway; only priority rulemakings can be found on the Gateway.

I. Reviews of Rules With Significant Impacts on a Substantial Number of Small Entities

Section 610 of the RFA requires that an agency review, within 10 years of promulgation, each rule that has or will have a significant economic impact on a substantial number of small entities. EPA has four rules scheduled for 610 review in 2010.

Rule Being Reviewed	RIN	Docket ID #
National Primary Drinking Water Regulations: Radionuclides (Section 610 Review)	2040-AF19	EPA-HQ-OW-2010-0166
Effluent Guidelines and Standards for the Centralized Waste Treatment Industry (Section 610 Review)	2040-AF18	EPA-HQ-OW-2010-0169
Tier II Light-Duty Vehicle and Light-Duty Truck Emission Standards and Gasoline Sulfur Standards (Section 610 Review)	2060-AQ12	EPA-HQ-OAR-2010-0052
National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring (Section 610 Review)	2040-AF24	EPA-HQ-OW-2010-0728

EPA has established official public dockets for these 610 Reviews under the docket identification (ID) numbers as indicated above. All documents in the dockets are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available; e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

EPA

Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the applicable program (Water or Air) docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744. Unless otherwise indicated, please direct your comments to the identified docket ID number for the specific 610 Review item. For these 610 Reviews, please DO NOT submit CBI or information that is otherwise protected by statute. You may submit comments using one of the following methods:

1. *Electronically.* Go directly to www.regulations.gov and find ''Advanced Docket Search.'' Enter the appropriate docket ID number. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. If you do submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket.

2. *By Mail.* Send your comments to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Docket # [insert applicable docket number], 1200 Pennsylvania Avenue NW., Washington, DC 20460.

3. *By Hand Delivery or Courier.* Deliver your comments, identified by the Docket # [insert applicable docket number], to: EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20460. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744. Such deliveries are only accepted during the docket center's normal hours of operation as identified above. For more information on EPA's docket center, please visit http://www.epa.gov/epahome/dockets.htm.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. For this action, please DO NOT submit CBI or information that is otherwise protected by statute.

J. What Other Special Attention Do We Give to the Impacts of Rules on Small Businesses, Small Governments, and Small Nonprofit Organizations?

For each of our rulemakings, we consider whether there will be any adverse impact on any small entity. We attempt to fit the regulatory requirements, to the extent feasible, to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulation.

Under RFA/SBREFA (the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act), the Agency must prepare a formal analysis of the potential negative impacts on small entities, convene a Small Business Advocacy Review Panel (proposed rule stage), and prepare a Small Entity Compliance Guide (final rule stage) unless the Agency certifies a rule will not have a significant economic impact on a substantial number of small entities. For more detailed information about the Agency's policy and practice with respect to implementing RFA/SBREFA, please visit the RFA/SBREFA Web site at http://www.epa.gov/sbrefa/.

For a list of the rules under development for which a Regulatory Flexibility Analysis will be required, go to http://www.regulations.gov/fdmspublic/component/main?main=UnifiedAgenda.

K. Thank You for Collaborating With Us

Finally, we would like to thank those of you who choose to join with us in making progress on the complex issues involved in protecting human health and the environment. Collaborative efforts such as EPA's open rulemaking process are a valuable tool for addressing the problems we face, and the regulatory agenda is an important part of that process.

Dated: September 10, 2010

Louise Wise,

Deputy Associate Administrator, Office of Policy, Economics, and Innovation.

CLEAN AIR ACT—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
443	Revision of New Source Performance Standards for New Residential Wood Heaters	2060–AP93

CLEAN AIR ACT—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
444	National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers **(Reg Plan Seq No. 149)**	2060–AM44
445	National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters **(Reg Plan Seq No. 154)**	2060–AQ25
446	Supplemental Determinations for Renewable Fuels Produced Under the Final RFS2 Program From Palm Oil	2060–AQ36

EPA

CLEAN AIR ACT—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
447	Supplemental Determination for Renewable Fuels Produced Under the Final RFS2 Program From Pulpwood	2060–AQ49

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

CLEAN AIR ACT—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
448	SAN No. 5367 NESHAP: Brick and Structural Clay Products and Clay Products	2060–AP69

CLEAN AIR ACT—Completed Actions

Sequence Number	Title	Regulation Identifier Number
449	Tier II Light-Duty Vehicle and Light-Duty Truck Emission Standards and Gasoline Sulfur Standards **(Completion of a Section 610 Review)**	2060–AQ12
450	Supplemental Determination for Renewable Fuels Produced Under the Final RFS2 Program From Canola Oil	2060–AQ35

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
451	Pesticides; Reconsideration of Exemptions for Insect Repellents	2070–AJ45

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
452	Pesticides; Certification of Pesticide Applicators	2070–AJ20
453	Pesticides; Agricultural Worker Protection Standard Revisions	2070–AJ22

TOXIC SUBSTANCES CONTROL ACT (TSCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
454	Lead; Clearance and Clearance Testing Requirements for the Renovation, Repair, and Painting Program **(Reg Plan Seq No. 155)**	2070–AJ57

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

TOXIC SUBSTANCES CONTROL ACT (TSCA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
455	Lead; Amendment to the Opt-Out and Recordkeeping Provisions in the Renovation, Repair, and Painting Program	2070–AJ55

EPA

CLEAN WATER ACT—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
456	Effluent Guidelines and Standards for the Centralized Waste Treatment Industry **(Section 610 Review)**	2040–AF18

CLEAN WATER ACT—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
457	Stormwater Regulations Revision To Address Discharges From Developed Sites **(Reg Plan Seq No. 146)**	2040–AF13

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

SAFE DRINKING WATER ACT (SDWA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
458	National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring **(Section 610 Review)**	2040–AF24

SAFE DRINKING WATER ACT (SDWA)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
459	SAN No. 2281 National Primary Drinking Water Regulations: Radon	2040–AA94

SAFE DRINKING WATER ACT (SDWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
460	National Primary Drinking Water Regulations: Radionuclides **(Completion of a Section 610 Review)**	2040–AF19

Environmental Protection Agency (EPA) — Proposed Rule Stage

Clean Air Act

443. REVISION OF NEW SOURCE PERFORMANCE STANDARDS FOR NEW RESIDENTIAL WOOD HEATERS

Legal Authority: CAA sec 111

Abstract: EPA is revising the New Source Performance Standards (NSPS) for residential wood heaters under the Clean Air Act section 111(b)(1)(B). This action is necessary because it updates the 1988 NSPS to reflect significant advancements in wood heater technologies and design, broaden the range of residential wood heating appliances covered by the regulation, and improve and streamline implementation procedures. This rule is expected to require manufacturers to redesign wood heaters to be cleaner and lower emitting. In general, the design changes will also make the heaters perform better and be more efficient. The revisions are also expected to retain the requirement for manufacturers to contract for testing of model lines by third-party independent laboratories, report the results to EPA, and label the models accordingly. This action does not apply to existing residential woodstoves, pellet stoves and other residential biomass heating units.

Timetable:

Action	Date	FR Cite
NPRM	06/00/11	
Final Action	07/00/12	

Regulatory Flexibility Analysis Required: Yes

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EPA—Clean Air Act **Proposed Rule Stage**

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RIN: 2060–AP93

Environmental Protection Agency (EPA) **Final Rule Stage**

Clean Air Act

444. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR AREA SOURCES: INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL BOILERS

Regulatory Plan: This entry is Seq. No. 149 in part II of this issue of the **Federal Register**.

RIN: 2060–AM44

445. NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR MAJOR SOURCES: INDUSTRIAL, COMMERCIAL, AND INSTITUTIONAL BOILERS AND PROCESS HEATERS

Regulatory Plan: This entry is Seq. No. 154 in part II of this issue of the **Federal Register**.

RIN: 2060–AQ25

446. ● SUPPLEMENTAL DETERMINATIONS FOR RENEWABLE FUELS PRODUCED UNDER THE FINAL RFS2 PROGRAM FROM PALM OIL

Legal Authority: Clean Air Act sec 211(o)

Abstract: As indicated in the final rule for the Renewable Fuels Standard Program, while the Agency issued lifecycle greenhouse gas (GHG) threshold determinations for the major fuel pathways projected to meet the bulk of the RFS volume mandates, assessments of other new fuel pathways such biofuels produced from palm oil, could not be completed in time for the final rule. In the process of assessing these fuels, the Agency is issuing determinations through several supplemental notices to the final rule.For this supplemental notice, EPA plans to publish a final determination for ethanol produced and biomass-based diesel produced from palm oil. The Agency will issue a Direct Final Notice of Supplemental Determination in early November.

Timetable:

Action	Date	FR Cite
Direct Final Action	02/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 2060–AQ36

447. ● SUPPLEMENTAL DETERMINATION FOR RENEWABLE FUELS PRODUCED UNDER THE FINAL RFS2 PROGRAM FROM PULPWOOD

Legal Authority: Clean Air Act Section 211(o)

Abstract: As indicated in the final rule for the Renewable Fuels Standard Program, while the Agency issued lifecycle greenhouse gas (GHG) threshold determinations for the major fuel pathways projected to meet the bulk of the RFS volume mandates, assessments of other new fuel pathways such as renewable fuels from pulpwood could not be completed in time for the final rule. In the process of assessing these fuels, the Agency is issuing determinations through several supplemental notices to the final rule. For this supplemental notice, EPA plans to publish a final determination for cellulosic biofuels produced from pulpwood. The Agency will issue a Direct Final Notice of Supplemental Determination in February.

Timetable:

Action	Date	FR Cite
Direct Final Action	02/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 2060–AQ49

Environmental Protection Agency (EPA) **Long-Term Actions**

Clean Air Act

448. NESHAP: BRICK AND STRUCTURAL CLAY PRODUCTS AND CLAY PRODUCTS

Legal Authority: Not Yet Determined

Abstract: This rulemaking will establish emission limits for hazardous air pollutants (HF, HCl and metals) emitted from brick and clay ceramics kilns and glazing operations at clay ceramics production facilities. The brick and structural clay products industry primarily includes facilities that manufacture brick, clay, pipe, roof tile, extruded floor and wall tile, and other extruded dimensional clay products from clay, shale, or a combination of the two. The manufacturing of brick and structural clay products involves mining, raw material processing (crushing, grinding,

and screening), mixing, forming, cutting or shaping, drying, and firing. Ceramics are defined as a class of inorganic, nonmetallic solids that are subject to high temperature in manufacture and/or use. The clay ceramics manufacturing source category includes facilities that manufacture traditional ceramics, which include ceramic tile, dinnerware, sanitaryware, pottery, and porcelain. The primary raw material used in the manufacture of these traditional ceramics is clay. The manufacturing of clay ceramics involves raw material processing (crushing, grinding, and screening), mixing, forming, shaping, drying, glazing, and firing.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes

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RIN: 2060–AP69

Environmental Protection Agency (EPA) Completed Actions

Clean Air Act

449. TIER II LIGHT–DUTY VEHICLE AND LIGHT–DUTY TRUCK EMISSION STANDARDS AND GASOLINE SULFUR STANDARDS (COMPLETION OF A SECTION 610 REVIEW)

Legal Authority: 5 USC 610

Abstract: On February 10, 2000 (65 FR 6698), EPA promulgated a regulation to require emission standards for light-duty vehicles and light-duty trucks through lowering tailpipe emission standards. Specifically, EPA sought to reduce emissions of nitrogen oxides and non-methane hydrocarbons, pollutants which contribute to ozone pollution. The rulemaking also provided limitations on the sulfur content of gasoline available nationwide. Sulfur in gasoline has a detrimental impact on catalyst performance and could be a limiting factor in the introduction of advanced technologies on motor vehicles.

Pursuant to section 610 of the Regulatory Flexibility Act, on February 19, 2010, EPA initiated a review of this rule to determine if it should be continued without change, or should be rescinded or amended to minimize adverse economic impacts on small entities (75 FR 7426). EPA has solicited comments on, the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. No relevant comments were received, and EPA has concluded that the rule needs no revisions at this time to minimize impacts on small entities. See EPA's report summarizing the results of this review in the docket EPA-HQ-OAR-2010-0052. This docket can be accessed at www.regulations.gov.

Timetable:

Action	Date	FR Cite
Final Action	02/10/00	65 FR 6698
Begin Review	02/19/10	75 FR 7426
End Comment Period	03/22/10	
End Review	06/11/10	

Regulatory Flexibility Analysis Required: No

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RIN: 2060–AQ12

450. ● SUPPLEMENTAL DETERMINATION FOR RENEWABLE FUELS PRODUCED UNDER THE FINAL RFS2 PROGRAM FROM CANOLA OIL

Legal Authority: Clean Air Act sec 211(o)

Abstract: As indicated in the final rule for the Renewable Fuels Standard Program, while the Agency issued lifecycle greenhouse gas (GHG) threshold determinations for the major fuel pathways projected to meet the bulk of the RFS volume mandates, assessments of other new fuel pathways such as biodiesel from canola could not be completed in time for the final rule. In the process of assessing these fuels, the Agency is issuing determinations through several supplemental notices to the final rule.

For this supplemental notice, EPA plans to publish a final determination for biomass-based diesel produced from canola oil. The Agency will issue a Direct Final Notice of Supplemental Determination in mid-September.

Timetable:

Action	Date	FR Cite
Direct Final Action	09/28/10	75 FR 59622
Final Action Effective	09/28/10	

Regulatory Flexibility Analysis Required: Yes

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RIN: 2060–AQ35

Environmental Protection Agency (EPA)
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Proposed Rule Stage

451. PESTICIDES; RECONSIDERATION OF EXEMPTIONS FOR INSECT REPELLENTS

Legal Authority: 7 USC 136a; 7 USC 136w

Abstract: EPA is developing rulemaking to modify the minimum risk pesticides exemption under 40 CFR 152.25(f) to exclude personally applied insect repellents from the exemption and require an abbreviated data set for such products. EPA is taking this action because these pesticides claim to control pests of significant public health importance.

Timetable:

Action	Date	FR Cite
NPRM	09/00/11	

Regulatory Flexibility Analysis Required: Yes

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RIN: 2070–AJ45

Environmental Protection Agency (EPA)
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Long-Term Actions

452. PESTICIDES; CERTIFICATION OF PESTICIDE APPLICATORS

Legal Authority: 7 USC 136; 7 USC 136i; 7 USC 136w

Abstract: EPA is proposing change the federal regulations under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) that guide the certified pesticide applicator program (40 CFR 171). Change is sought to strengthen the regulations to better protect pesticide applicators and the public and the environment from harm due to pesticide exposure. The possible need for change arose from EPA discussions with key stakeholders. EPA has been in extensive discussions with stakeholders since 1997 when the Certification and Training Assessment Group (CTAG) was established. CTAG is a forum used by regulatory and academic stakeholders to discuss the current state of, and the need for improvements in, the national certified pesticide applicator program. Throughout these extensive interactions with stakeholders, EPA has learned of the potential need for changes to the regulation.

Timetable:

Action	Date	FR Cite
NPRM	01/00/12	

Regulatory Flexibility Analysis Required: Yes

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RIN: 2070–AJ20

453. PESTICIDES; AGRICULTURAL WORKER PROTECTION STANDARD REVISIONS

Legal Authority: 7 USC 136; 7 USC 136w

Abstract: EPA is developing a proposal under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to revise the federal regulations guiding agricultural worker protection (40 CFR 170). The changes under consideration are intended to improve agricultural workers' ability to protect themselves from potential exposure to pesticides and pesticide residues. In addition, EPA is proposing to make adjustments to improve and clarify current requirements and facilitate enforcement. Other changes sought are to establish a right-to-know Hazard Communication program and make improvements to pesticide safety training, with improved worker safety the intended outcome. The potential need for change arose from EPA discussions with key stakeholders beginning in 1996 and continuing through 2004. EPA held nine public meetings throughout the country during which the public submitted written and verbal comments on issues of their concern. In 2000 through 2004, EPA held meetings where invited stakeholders identified their issues and concerns with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	01/00/12	

Regulatory Flexibility Analysis Required: Yes

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RIN: 2070–AJ22

Environmental Protection Agency (EPA)
Toxic Substances Control Act (TSCA)

Final Rule Stage

454. LEAD; CLEARANCE AND CLEARANCE TESTING REQUIREMENTS FOR THE RENOVATION, REPAIR, AND PAINTING PROGRAM

Regulatory Plan: This entry is Seq. No. 155 in part II of this issue of the **Federal Register**.

RIN: 2070–AJ57

Environmental Protection Agency (EPA)
Toxic Substances Control Act (TSCA)

Completed Actions

455. LEAD; AMENDMENT TO THE OPT–OUT AND RECORDKEEPING PROVISIONS IN THE RENOVATION, REPAIR, AND PAINTING PROGRAM

Legal Authority: 15 USC 2601(c); 15 USC 2682(c)(3); 15 USC 2684; 15 USC 2686; 15 USC 2687

Abstract: As part of a lawsuit settlement, EPA agreed to make several revisions to the 2008 Lead Renovation, Repair, and Painting Program (RRP) rule that established accreditation, training, certification, and recordkeeping requirements as well as work practice standards on persons performing renovations for compensation in most pre-1978 housing and child-occupied facilities. In October of 2009, EPA proposed amendments to the opt-out provision that currently exempts a renovator from the training and work practice requirements of the rule when he or she obtains a certification from the owner of a residence he or she occupies that no child under age 6 or pregnant women resides in the home and the home is not a child-occupied facility. EPA also proposed revisions that involve renovation firms providing the owner with a copy of the records they are currently required to maintain to demonstrate compliance with the training and work practice requirements of the RRP rule and, if different, providing the information to the occupant of the building being renovated or the operator of the child-occupied facility. In addition to the proposed amendments, EPA considered various minor amendments to the regulations concerning training provider accreditations, renovator certifications and State and Tribal program requirements. In May, 2010, EPA published a final rule eliminating the opt-out provision and finalizing the other provisions.

Timetable:

Action	Date	FR Cite
NPRM	10/28/09	74 FR 55506
Final Action	05/06/10	75 FR 24802

Regulatory Flexibility Analysis Required: Yes

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RIN: 2070–AJ55

Environmental Protection Agency (EPA)
Clean Water Act

Prerule Stage

456. EFFLUENT GUIDELINES AND STANDARDS FOR THE CENTRALIZED WASTE TREATMENT INDUSTRY (SECTION 610 REVIEW)

Legal Authority: 5 USC 610

Abstract: In December 2000, EPA promulgated effluent limitations for the Centralized Waste Treatment (CWT) Point Source Category at 40 CFR 437 (65 FR 81241, December 22, 2000). A CWT facility treats or recovers hazardous or non-hazardous industrial waste, wastewater, or used material from off-site. The regulation established wastewater discharge standards for three major types of wastes: metal-bearing, oily, and organic. EPA issued a Small Entity Compliance Guide, which provides easy-to-read descriptions of the regulations and other helpful information on how to comply such as a question and answer section.

Pursuant to section 610 of the Regulatory Flexibility Act, on April 26, 2010, EPA initiated a review of the rule to determine if it should be continued without change, or should be rescinded or amended to minimize adverse economic impacts on small entities (75 FR 21882). As part of this review, EPA is considering, and has solicited comments on, the following factors: (1) the continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. The comment period closed July 31, 2010. The Docket ID number is EPA-HQ-OW-2010-0169. EPA will summarize the results of this review in a report and place that report in the rulemaking docket referenced above. You can access that docket at www.regulations.gov.

EPA continues to view the effluent limitations for the CWT category as a necessary component of the

EPA—Clean Water Act **Prerule Stage**

comprehensive program to restore and maintain the quality of our Nation's waters. EPA intends to continue to require compliance with the regulation. Until and unless the Agency modifies the rule, the discharges described in 40 CFR 437.1 remain subject to the final rules.

Timetable:

Action	Date	FR Cite
Final Action	12/22/00	65 FR 81241
Begin Review	04/26/10	75 FR 21882
End Comment Period	07/31/10	75 FR 21882
End Review	12/00/10	

Regulatory Flexibility Analysis Required: No

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RIN: 2040–AF18

Environmental Protection Agency (EPA) **Proposed Rule Stage**
Clean Water Act

457. STORMWATER REGULATIONS REVISION TO ADDRESS DISCHARGES FROM DEVELOPED SITES

Regulatory Plan: This entry is Seq. No. 146 in part II of this issue of the **Federal Register**.

RIN: 2040–AF13

Environmental Protection Agency (EPA) **Prerule Stage**
Safe Drinking Water Act (SDWA)

458. ● NATIONAL PRIMARY DRINKING WATER REGULATIONS; ARSENIC AND CLARIFICATIONS TO COMPLIANCE AND NEW SOURCE CONTAMINANTS MONITORING (SECTION 610 REVIEW)

Legal Authority: 5 USC 610

Abstract: On January 22, 2001, EPA revised the Maximum Contaminant Level (MCL) for arsenic to 0.010 mg/L (10.0 µg/L). This regulation applies to non-transient non-community water systems and to community water systems (66 FR 6976). While EPA has taken steps to evaluate and mitigate impacts on small entities as part of the promulgation of the Arsenic Rule, this new entry in the regulatory agenda announces that EPA will review the National Primary Drinking Water Rule (NPDWR) for arsenic pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610). As part of this review, EPA will consider and solicit comments on the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and (5) the degree to which the technology, economic conditions or other factors have changed in the area affected by the rule. Comments must be received within 60 days of this notice. In submitting comments, please reference Docket ID EPA-HQ-OW-2010-0728 and follow the instructions provided in the preamble to this issue of the Regulatory Agenda. This docket can be accessed at www.regulations.gov.

Timetable:

Action	Date	FR Cite
Final Rule	01/22/01	66 FR 6976
Initiate 610 Review	12/00/10	
End Comment Period	01/00/11	
Completion of 610 Review	10/00/11	

Regulatory Flexibility Analysis Required: No

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RIN: 2040–AF24

Environmental Protection Agency (EPA) **Long-Term Actions**
Safe Drinking Water Act (SDWA)

459. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADON

Legal Authority: 42 USC 300f, et seq

Abstract: In 1999, EPA proposed regulations for radon which provide flexibility in how to manage the health risks from radon in drinking water. The proposal was based on the unique framework in the 1996 SDWA. The proposed regulation would provide for either a maximum contaminant level (MCL), or an alternative maximum contaminant level (AMCL) with a multimedia mitigation (MMM) program to address radon in indoor air. Under

EPA—Safe Drinking Water Act (SDWA) — Long-Term Actions

the proposal, public water systems in States that adopted qualifying MMM programs would be subject to the AMCL, while those in States that did not adopt such programs would be subject to the MCL.

Timetable:

Action	Date	FR Cite
ANPRM	09/30/86	51 FR 34836
NPRM original	07/18/91	56 FR 33050
Notice99	02/26/99	64 FR 9560
NPRM	11/02/99	64 FR 59246
Final Action	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

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RIN: 2040–AA94

Environmental Protection Agency (EPA) — Completed Actions

Safe Drinking Water Act (SDWA)

460. NATIONAL PRIMARY DRINKING WATER REGULATIONS: RADIONUCLIDES (COMPLETION OF A SECTION 610 REVIEW)

Legal Authority: 5 USC 610

Abstract: On December 7, 2000 (65 FR 76708), EPA promulgated final revised and/or new national primary drinking water regulations (NPDWRs) for nonradon radionuclides as authorized by the Safe Drinking Water Act (SDWA). In this action, referred to as the Radionuclides Rule, EPA promulgated maximum contaminant level goals (MCLGs), maximum contaminant levels (MCLs), monitoring, reporting, and public notification requirements for gross alpha particle activity, combined radium-226 and 228, beta particle and photon activity and uranium. The Radionuclides Rule became effective on December 8, 2003.

Pursuant to section 610 of the Regulatory Flexibility Act, EPA has reviewed this rule to determine if it should be continued without change, or should be rescinded or amended to minimize adverse economic impacts on small entities. This review was announced in the Regulatory Agenda on April 26, 2010 (75 FR 21883). As part of this review, EPA considered, and solicited comments on, the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

EPA received five comment letters. The results of EPA's review have been summarized in a report and placed in the rulemaking docket (docket number EPA-HQ-OW-2010- 0166 at www.regulations.gov). These results are briefly summarized here.

There was consensus among the commenters about the continued need for the Radionuclides Rule, because it serves as an important tool to protect the health of people who get their drinking water from public systems using sources of water with high levels of radionuclides.

While none of the commenters expressed a need to rescind the rule, most of the comments were aimed at suggesting that the Agency make clarifications in certain areas of the rule to aid small entities in its rule compliance.

After reviewing all the comments regarding this Section 610 review the Agency has concluded that revisions or amendments to the Radionuclides rule are not warranted at this time. However, EPA is evaluating the need to provide additional guidance and clarification on those issues raised by the commenters to assist in the rule implementation.

The Agency bases its decision to not revise or amend the rule at this time on the analysis conducted during the promulgation of the rule which were aimed at reducing economic burden on small entities. Among the measures that the Agency took to minimize impacts on small entities are: (1) The selection of a less stringent MCL for uranium, (2) a reduction in the overall monitoring frequencies for systems with radionuclides levels less than the MCL, (3) allowance of grandfathered data and State monitoring discretion for determining the initial monitoring baseline, and (4) the exclusion of nontransient, non-community water systems from the radionuclides regulations.

EPA will continue to evaluate the effectiveness of the Radionuclides rule and the potential to decrease the rule's implementation burden within the framework provided by the SDWA and other agency initiatives.

EPA continues to view the NPDWRs for radionuclides as important to ensure and protect the health of consumers served by public drinking water systems and intends to continue to require compliance with these NPDWRs.

Timetable:

Action	Date	FR Cite
Final Action	12/07/00	65 FR 76708
Begin Review	04/26/10	75 FR 21883
End Comment Period	07/26/10	
End Review	09/10/10	

Regulatory Flexibility Analysis Required: No

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RIN: 2040–AF19

[FR Doc. 2010–30459 Filed 12–17–10; 8:45 am]

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Federal Register

Monday,
December 20, 2010

Part XVI

General Services Administration

Semiannual Regulatory Agenda

GENERAL SERVICES ADMINISTRATION (GSA)

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 101, 102, 105, 300, 301, and 302

48 CFR Chs. 5 and 61

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: General Services Administration (GSA).

ACTION: Semiannual Regulatory Agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those that were completed since the spring 2010 edition. This agenda was developed under the guidelines of Executive Order 12866 ''Regulatory Planning and Review.'' GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. GSA also invites interested persons to recommend existing significant regulations for review to determine whether they should be modified or eliminated. Proposed rules may be reviewed in their entirety at the Government's rulemaking website at *http://www.regulations.gov*.

Since the fall 2007 edition, the Internet has been the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at *www.reginfo.gov*, in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), GSA's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, the entireRegulatory Plan will continue to be printed in the **Federal Register**, as in past years, including GSA's regulatory plan.

FOR FURTHER INFORMATION CONTACT: Hada Flowers, Supervisor, Regulatory Secretariat Branch at (202) 208-7282.

Dated: September 16, 2010.

Kathleen M. Turco,

Associate Administrator, Office of Governmentwide Policy.

Dated: September 3, 2010.

Edward Loeb,

Director, Acquisition Policy Division.

Dated: September 8, 2010.

Sloan W. Farrell,

Division Director, External Programs, Office of Civil Rights.

Dated: September 8, 2010.

Chris Giavis,

Office of Real Property Asset Management.

General Services Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
461	Cooperative Purchasing—Acquisition of Security and Law Enforcement Related Goods and Services (Schedule 84) by State and Local Governments Through Federal Supply Schedules	3090–AI68

General Services Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
462	General Services Administration Acquisition Regulation; GSAR Case 2006-G507, Rewrite of Part 538, Federal Supply Schedule Contracting	3090–AI77

General Services Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
463	General Services Administration Acquisition Regulation; GSAR Case 2005-G501; Federal Agency Retail Pharmacy Program	3090–AI06
464	General Services Administration Acquisition Regulation; GSAR Case 2006-G522, Federal Supply Schedule Contracts—Recovery Purchasing by State and Local Governments Through Federal Supply Schedules	3090–AI32

General Services Administration (GSA) — Final Rule Stage

OFFICE OF ACQUISITION POLICY

461. COOPERATIVE PURCHASING—ACQUISITION OF SECURITY AND LAW ENFORCEMENT RELATED GOODS AND SERVICES (SCHEDULE 84) BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL SUPPLY SCHEDULES

Legal Authority: 40 USC 121(c); 40 USC 502(c)(1)(B)

Abstract: The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to implement Public Law 110-248, The Local Preparedness Acquisition Act. The Act authorizes the Administrator of General Services to provide for the use by State or local governments of Federal Supply Schedules of the General Services Administration (GSA) for alarm and signal systems, facility management systems, firefighting and rescue equipment, law enforcement and security equipment, marine craft and related equipment, special purpose clothing, and related services (as contained in Federal supply classification code group 84 or any amended or subsequent version of that Federal supply classification group).

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/19/08	73 FR 54334
Interim Final Rule Comment Period End	11/18/08	
Final Rule	03/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: William Clark, Procurement Analyst, General Services Administration, 1275 First Street, NE., Washington, DC 20417, Washington, DC 20405
Phone: 202 219–1813
Email: william.clark@gsa.gov

RIN: 3090–AI68

General Services Administration (GSA) — Long-Term Actions

OFFICE OF ACQUISITION POLICY

462. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; GSAR CASE 2006–G507, REWRITE OF PART 538, FEDERAL SUPPLY SCHEDULE CONTRACTING

Legal Authority: 40 USC 121(c)

Abstract: The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to revise sections of GSAR part 538 that provide requirements for Federal Supply Schedule Contracting actions. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	01/26/09	74 FR 4596
NPRM Comment Period End	03/27/09	
Final Rule	12/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Deborah Lague, Procurement Analyst, General Services Administration, 1275 First Street, NE., Washington, DC 20417, Washington, DC 20405
Phone: 202 694–8149
Email: deborah.lague@gsa.gov

RIN: 3090–AI77

General Services Administration (GSA) — Completed Actions

463. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; GSAR CASE 2005–G501; FEDERAL AGENCY RETAIL PHARMACY PROGRAM

Legal Authority: 40 USC 121(c)

Abstract: The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to add a new subpart and clause required by the Department of Veterans Affairs (VA), consistent with congressional intent under section 603 of the Veterans Health Care Act of 1992 (VHCA) and 38 U.S.C. 8126, that certain Federal agencies (i.e., VA, Department of Defense (DoD), Public Health Service (including the Indian Health Service), and the Coast Guard) have access to Federal pricing for pharmaceuticals purchased for their beneficiaries.

GSA is responsible for the schedules program and rules related to its operation. Under GSA's delegation of authority, the VA procures medical supplies under the VA Federal Supply Schedule program. VA and DoD seek this amendment. This new subpart adds a clause unique to the virtual depot system established by a Federal Agency Retail Pharmacy Program utilizing contracted retail pharmacies as part of a centralized pharmaceutical commodity management program. At this time, only DoD has a program in place, and the rule would facilitate DoD's access to Federal pricing on Federal Supply Schedule (FSS) pharmaceutical contracts for covered drugs purchased by DoD and dispensed to TRICARE beneficiaries through retail pharmacies in the TRICARE network.

Completed:

Reason	Date	FR Cite
Withdrawn	09/03/10	

GSA **Completed Actions**

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Clare McFadden
Phone: 202 501–0044
Email: clare.mcfadden@gsa.gov

RIN: 3090–AI06

464. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION; GSAR CASE 2006–G522, FEDERAL SUPPLY SCHEDULE CONTRACTS—RECOVERY PURCHASING BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL SUPPLY SCHEDULES

Legal Authority: 40 USC 121(c); 40 USC 502(d)

Abstract: The rule is amending the General Services Administration Acquisition Regulation (GSAR) to implement section 833 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Pub. L. 109-364). Section 833 amends 40 U.S.C. 502 to authorize the Administrator of General Services to provide to State and local governments the use of Federal Supply Schedules of the GSA for purchase of products and services to be used to facilitate recovery from a major disaster declared by the President or to facilitate recovery from terrorism, or nuclear, biological, chemical, or radiological attack.

Completed:

Reason	Date	FR Cite
Withdrawn	09/03/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: William Clark
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Email: william.clark@gsa.gov

RIN: 3090–AI32

[FR Doc. 2010–30467 Filed 12–17–10; 8:45 am]

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Federal Register

Monday,
December 20, 2010

Part XVII

Small Business Administration

Semiannual Regulatory Agenda

SMALL BUSINESS ADMINISTRATION (SBA)

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This Regulatory Agenda is a semiannual summary of all current and projected rulemakings, existing regulations, and completed actions of the Small Business Administration (SBA). This agenda provides the public with information about SBA's regulatory activity. SBA expects that this information will enable the public to be more aware of, and effectively participate in, the SBA's regulatory activity. SBA invites the public to submit comments on any aspect of this Agenda.

FOR FURTHER INFORMATION CONTACT:

General

Please direct general comments or inquiries to Martin ''Sparky'' Conrey, Assistant General Counsel for Legislation and Appropriations, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 619-0638, martin.conrey@sba.gov.

Specific

Please direct specific comments and inquiries on individual regulatory activities identified in this agenda to the person listed in the summary of the regulation as the point of contact for that regulation.

SUPPLEMENTARY INFORMATION:

SBA provides this notice under the requirements of the Regulatory Flexibility Act, 5 U.S.C. sections 601 to 612 and Executive Order 12866, ''Regulatory Planning and Review,'' which require each agency to publish a semiannual agenda of regulations. The regulatory agenda is a summary of all current and projected rulemakings, as well as actions completed since the publication of the last regulatory agenda for the agency. The semiannual agenda of the SBA conforms to the Unified Agenda format developed by the Regulatory Information Service Center.

SBA's last semiannual regulatory agenda was published on April 26, 2010, at 75 FR 21890.

Beginning in fall 2007, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at www.reginfo.gov.

As part of the Unified Agenda, federal agencies are also required to prepare a Regulatory Plan of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal year. As in past years, for fall editions of the Unified Agenda, the entire regulatory plan, including SBA's regulatory plan, is printed in the Federal Register.

The Regulatory Flexibility Act requires federal agencies to publish their regulatory flexibility agenda in the **Federal Register**. A regulatory flexibility agenda shall contain, among other things, ''a brief description of the subject area of any rule, which is likely to have a significant economic impact on a substantial number of small entities.'' SBA's printed agenda entries include regulatory actions that are in the SBA's regulatory flexibility agenda. Printing of these entries is limited to fields that contain information required by the agenda provisions of the Regulatory Flexibility Act. Additional information on these entries is available in the Unified Agenda published on the Internet.

Dated: September 15, 2010.

Karen G. Mills,

Administrator.

Small Business Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
465	Small Business Development Centers (SBDC) Program Revisions	3245–AE05
466	SBA Express Loan Program	3245–AF85
467	Small Business Investment Companies—Energy Saving Qualified Investments	3245–AF86
468	Implementation of Military Reservist and Veteran Small Business Reauthorization and Opportunity Act of 2008	3245–AF87
469	Implementation of Small Business Disaster Response and Loan Improvement Act of 2008: Expedited Disaster Assistance Program	3245–AF88
470	Implementation of Small Business Disaster Response and Loan Improvement Act of 2008: Private Loan Disaster Program	3245–AF99
471	Interest Rate—Resetting Fixed Interest Rate	3245–AG03
472	504 Program Governance Regulations	3245–AG04
473	Small Business Size Standards for Loan, Investment, and Surety Programs	3245–AG05
474	Small Business Size Standards: Professional, Scientific, and Technical Services	3245–AG07
475	Small Business Size Standards: Transportation and Warehousing Industries	3245–AG08
476	Small Business Jobs Act: Small Business Size Standards; Alternative Size Standard for 7(a) and 504 Business Loan Programs	3245–AG16
477	Small Business Jobs Act: Multiple Award Contracts and Small Business Set-Asides **(Reg Plan Seq No. 160)**	3245–AG20
478	Small Business Jobs Act: Bundling and Contract Consolidation	3245–AG21
479	Small Business Jobs Act: Subcontract Integrity	3245–AG22
480	Small Business Jobs Act: Small Business Size and Status Integrity	3245–AG23
481	Small Business Jobs Act: Small Business Mentor-Protégé Programs	3245–AG24

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

SBA

Small Business Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
482	Lender Oversight Program	3245–AE14
483	Small Business Size Regulations; (8)a Business Development/Small Disadvantaged Business Status Determination **(Reg Plan Seq No. 161)**	3245–AF53
484	Small Business, Small Disadvantaged Business, HUBZone, and Service-Disabled Veteran-Owned Protest and Appeal Regulations.	3245–AF65
485	Small Business Jobs Act: 504 Loan Program Debt Refinancing **(Reg Plan Seq No. 162)**	3245–AG17
486	Small Business Jobs Act: Small Business Intermediary Lending Pilot Program **(Reg Plan Seq No. 163)**	3245–AG18

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

Small Business Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
487	Women's Business Center Program	3245–AG02

Small Business Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
488	Small Business Size Standards: Retail Trade.	3245–AF69
489	Small Business Size Standards: Other Services	3245–AF70
490	Small Business Size Standards: Accommodation and Food Services Industries.	3245–AF71
491	Women-Owned Small Business Federal Contract Program	3245–AG06

Small Business Administration (SBA) — Proposed Rule Stage

465. SMALL BUSINESS DEVELOPMENT CENTERS (SBDC) PROGRAM REVISIONS

Legal Authority: 15 USC 634(b)(6); 15 USC 648

Abstract: This rule would update Small Business Development Center (SBDC) program regulations by amending among things, the (1) procedures for approving and funding of SBDCs; (2) approval procedures for travel outside the continental U.S. and U.S. territories; (3) procedures and requirements regarding findings and disputes resulting from financial exams, programmatic reviews, accreditation reviews, and other SBA oversight activities; (4) requirements for new and renewal applications for SBDC awards, including the requirements for electronic submission through the approved electronic Government submission facility; and (5) provisions regarding the collection and use of individual SBDC client data.

Timetable:

Action	Date	FR Cite
NPRM	08/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Antonio Doss, Director, Office of Small Business Development Centers, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–6766
Email: antonio.doss@sba.gov

RIN: 3245–AE05

466. SBA EXPRESS LOAN PROGRAM

Legal Authority: 15 USC 636(a)(31)

Abstract: SBA plans to issue regulations for the SBA Express loan program codified in section 7(a)(31) of the Small Business Act. The SBA Express loan program reduces the number of Government mandated forms and procedures, streamlines the processing and reduces the cost of smaller, less complex SBA loans. Particular features of the SBA Express loan program include: (1) SBA Express loans carry a maximum SBA guaranty of 50 percent; (2) a response to an SBA Express loan application will be given within 36 hours; (3) lenders and borrowers can negotiate the interest rate, which may not exceed SBA maximums; and (4) qualified lenders may be granted authorization to make eligibility determinations. SBA also plans to issue regulations for the Export Express Program codified at 7(a)(35) of the Small Business Act. The Export Express Program, made permanent by the Small Business Jobs Act, makes guaranteed financing available for export development activities.

Timetable:

Action	Date	FR Cite
NPRM	08/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Grady Hedgespeth, Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–7562
Fax: 202 481–0248
Email: grady.hedgespeth@sba.gov

RIN: 3245–AF85

467. SMALL BUSINESS INVESTMENT COMPANIES—ENERGY SAVING QUALIFIED INVESTMENTS

Legal Authority: 15 USC 636(a)(32)

Abstract: In this proposed rule, the U.S. Small Business Administration (SBA) will set forth the new defined terms, ''Energy Saving Qualified Investment'' and ''Energy Saving Activities'', for the Small Business Investment Company (SBIC) Program. The new definitions are being established to facilitate implementation of a provision of the Energy Independence and Security Act of 2007 (Energy Act), which allows an SBIC making an ''energy saving qualified investment'' to obtain SBA leverage by issuing a deferred interest ''energy saving debenture.''

This rule would also implement a provision of the Energy Act that provides access to additional SBA leverage for SBICs that have made Energy Saving Qualified Investments.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Carol Fendler, Systems Accountant, Office of Investment, Small Business Administration, 409 Third Street SW, 6th Floor, Washington, DC 20416
Phone: 202 205–7559
Email: carol.fendler@sba.gov

RIN: 3245–AF86

468. IMPLEMENTATION OF MILITARY RESERVIST AND VETERAN SMALL BUSINESS REAUTHORIZATION AND OPPORTUNITY ACT OF 2008

Legal Authority: 15 USC 632(q); 15 USC 636(j)

Abstract: SBA plans to issue regulations to implement section 205 of the Military Reservist and Veteran Small Business Reauthorization and Opportunity Act. This Act provides that any time limitation on any qualification, certification, or period of participation imposed under the Small Business Act on any program that is available to small business concerns shall be extended for a small business concern that is owned and controlled by a veteran who was called or ordered to active duty or a service-disabled veteran who became such a veteran due to an injury or illness incurred or aggravated in the active military duty. These regulations will provide guidance on tolling of time limitations for veteran-owned small businesses.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dean R. Koppel, Assistant Director, Office of Policy and Research, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–7322
Fax: 202 481–1540
Email: dean.koppel@sba.gov

RIN: 3245–AF87

469. IMPLEMENTATION OF SMALL BUSINESS DISASTER RESPONSE AND LOAN IMPROVEMENT ACT OF 2008: EXPEDITED DISASTER ASSISTANCE PROGRAM

Legal Authority: 15 USC 636(j)

Abstract: This proposed rule would establish and implement an expedited disaster assistance business loan program under which the SBA will guarantee short-term loans made by private lenders to eligible small businesses located in a catastrophic disaster area. The maximum loan amount is $150,000, and SBA will guarantee timely payment of principal and interest to the lender. The maximum loan term is 180 days, and the interest rate is limited to 300 basis points over the Federal funds rate.

Timetable:

Action	Date	FR Cite
NPRM	08/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Grady Hedgespeth, Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
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RIN: 3245–AF88

470. IMPLEMENTATION OF SMALL BUSINESS DISASTER RESPONSE AND LOAN IMPROVEMENT ACT OF 2008: PRIVATE LOAN DISASTER PROGRAM

Legal Authority: 15 USC 636

Abstract: This proposed rule would establish and implement a private disaster loan program under which SBA will guarantee loans made by qualified lenders to eligible small businesses and homeowners located in a catastrophic disaster area. Private disaster loans made under this programs will have the same terms and conditions as SBA's direct disaster loans. In addition, SBA will guarantee timely payment of principal and interest to the lender. SBA may guarantee up to 85 percent of any loan under this program and the maximum loan amount is $2 million.

Timetable:

Action	Date	FR Cite
NPRM	08/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Grady Hedgespeth, Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–7562
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Email: grady.hedgespeth@sba.gov

RIN: 3245–AF99

471. INTEREST RATE—RESETTING FIXED INTEREST RATE

Legal Authority: 15 USC 634

Abstract: SBA currently offers either a fixed or variable interest rate for 7(a) loans. In addition to these rates, the Agency is working to develop a shorter term fixed interest rate with the ability to be re-set at periodic intervals. This type of rate is currently available in the commercial market place and will help provide additional options for small

business borrowers. By authorizing this option, SBA is recognizing a need to allow lenders to utilize market opportunities. For example, SBA recently revised its rules to allow the use of LIBOR.

Timetable:

Action	Date	FR Cite
NPRM	07/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Grady Hedgespeth, Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–7562
Fax: 202 481–0248
Email: grady.hedgespeth@sba.gov

RIN: 3245–AG03

472. 504 PROGRAM GOVERNANCE REGULATIONS

Legal Authority: 15 USC 695 et seq

Abstract: SBA proposes to revise the regulations for the Agency's 504 Certified Development Company (CDC) Loan Program in order to (1) simplify processes and reduce the regulatory burdens on program participants while maintaining appropriate controls to mitigate risk; (2) expand access of other nonprofit economic development entities into the program both as independent CDCs or affiliates of CDCs, especially in communities not currently served; (3) be inclusive of existing CDCs by modifications enabling them to be in compliance with the regulations; (4) clarify current regulations; and (4) update the regulations with statutory requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Grady Hedgespeth, Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–7562
Fax: 202 481–0248
Email: grady.hedgespeth@sba.gov

RIN: 3245–AG04

473. SMALL BUSINESS SIZE STANDARDS FOR LOAN, INVESTMENT, AND SURETY PROGRAMS

Legal Authority: 15 USC 632, 634(b)(6), 636(b), 637, 644, 662(5)

Abstract: SBA currently sets different size standards for participation in its financial assistance programs. 7(a) borrowers use the standards set out for procurement programs or a temporary alternate standard; 504 borrowers may use the 7(a) standards or an alternate standard; SBIC investment may be made to small businesses that qualify through another standard; and Surety Bond program participants must meet still different requirements. As part of an overall Agency program, SBA will review financial program eligibility regulations in order to update size eligibility requirements among these programs.

Timetable:

Action	Date	FR Cite
NPRM	08/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Khem Sharma, Division Chief, Division of Size Standards, Office of Government Contracting/Business Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–7189
Fax: 202 205–6390
Email: khem.sharma@sba.gov

RIN: 3245–AG05

474. SMALL BUSINESS SIZE STANDARDS: PROFESSIONAL, SCIENTIFIC, AND TECHNICAL SERVICES

Legal Authority: 15 USC 632(a)

Abstract: The U.S. Small Business Administration (SBA) proposes to modify small business size standards for industries in the North American Industry Classification System (NAICS) Sector 54, Professional, Scientific and Technical Services. As part of its ongoing initiative to review all size standards, SBA will evaluate each industry in Sector 54 to determine whether the existing size standards should be retained or revised. This is one of a series of proposed rules that will examine industries grouped by an NAICS Sector. SBA has applied its ''Size Standards Methodology,'' which is available on its Web site at http://www.sba.gov/size, to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Khem Sharma, Division Chief, Division of Size Standards, Office of Government Contracting/Business Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–7189
Fax: 202 205–6390
Email: khem.sharma@sba.gov

RIN: 3245–AG07

475. SMALL BUSINESS SIZE STANDARDS: TRANSPORTATION AND WAREHOUSING INDUSTRIES

Legal Authority: 15 USC 632(a)

Abstract: The U.S. Small Business Administration (SBA) proposes to modify small business size standards for industries in the North American Industry Classification System (NAICS) Sector 48-49, Transportation and Warehousing Industries. As part of its ongoing initiative to review all size standards, SBA will evaluate each industry in Sector 48-49 to determine whether the existing size standards should be retained or revised. This is one of a series of proposed rules that will examine industries grouped by an NAICS Sector. SBA has applied its ''Size Standards Methodology,'' which is available on its Web site at http://www.sba.gov/size, to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Khem Sharma, Division Chief, Division of Size Standards, Office of Government Contracting/Business Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–7189
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Email: khem.sharma@sba.gov

RIN: 3245–AG08

476. ● SMALL BUSINESS JOBS ACT: SMALL BUSINESS SIZE STANDARDS; ALTERNATIVE SIZE STANDARD FOR 7(A) AND 504 BUSINESS LOAN PROGRAMS

Legal Authority: PL 111–240, sec 1116

Abstract: The Small Business Jobs Act directs SBA to establish a new alternative size standard based on tangible net worth and net income for determining size eligibility for its 7(a) and 504 loan programs. The law also established a new temporary alternative size standard that is in effect until SBA issues a new size rule. This rule will propose a new alternative size standard for the 7(a) and 504 loan programs.

Timetable:

Action	Date	FR Cite
NPRM	02/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Khem Sharma, Division Chief, Division of Size Standards, Office of Government Contracting/Business Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–7189
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RIN: 3245–AG16

477. ● SMALL BUSINESS JOBS ACT: MULTIPLE AWARD CONTRACTS AND SMALL BUSINESS SET–ASIDES

Regulatory Plan: This entry is Seq. No. 160 in part II of this issue of the **Federal Register**.

RIN: 3245–AG20

478. ● SMALL BUSINESS JOBS ACT: BUNDLING AND CONTRACT CONSOLIDATION

Legal Authority: PL 111–240, sec 1312, 1313

Abstract: The U.S. Small Business Administration is proposing regulations that will set forth a government-wide policy on bundling, which will address teams and joint ventures of small businesses and the requirement that each federal agency must publish on its website the rationale for any bundled contract. In addition, the proposed regulations will address contract consolidation and the limitations on the use of such consolidation in Federal procurement to include ensuring that the head of a Federal agency may not carry out a consolidated contract over $2 million unless the Senior Procurement Executive or Chief Acquisition Officer ensures that market research has been conducted and determines that the consolidation is necessary and justified. Further, the proposed regulations will address two new pilot programs: the three year pilot program called the ''Electronic Procurement Center Representative (ePCR) Program'' and the Small Business Teaming Pilot Program for teaming and joint ventures involving small businesses.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dean R. Koppel, Assistant Director, Office of Policy and Research, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–7322
Fax: 202 481–1540
Email: dean.koppel@sba.gov

RIN: 3245–AG21

479. ● SMALL BUSINESS JOBS ACT: SUBCONTRACT INTEGRITY

Legal Authority: PL 111–240, secs 1321 and 1322, 1334

Abstract: The U.S. Small Business Administration is proposing regulations that address subcontracting compliance and the interrelationship between contracting offices, small business offices and program offices relating to oversight and review activities. The proposed regulation will also address the statutory requirement that a large business prime contractor must represent that it will make good faith efforts to award subcontracts to small businesses at the same percentage as indicated in the subcontracting plan submitted as part of its proposal for a contract and that if the percentage is not met, the large business prime contractor must provide a written justification and explanation to the contracting officer. Finally, the proposed regulation may also address the statutory requirement that a prime contractor must notify the contracting officer in writing if it has paid a reduced price to a subcontractor for goods and services or if the payment to the subcontractor is more than 90 days past due.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dean R. Koppel, Assistant Director, Office of Policy and Research, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–7322
Fax: 202 481–1540
Email: dean.koppel@sba.gov

RIN: 3245–AG22

480. ● SMALL BUSINESS JOBS ACT: SMALL BUSINESS SIZE AND STATUS INTEGRITY

Legal Authority: PL 111–240, sec 1341 and 1343

Abstract: The U.S. Small Business Administration is proposing regulations that will address the intentional misrepresentations of small business status as a ''presumption of loss against the Government.'' In addition, the proposed rule will address the statutory requirement that no business may continue to certify itself as small on the Online Representation and Certifications Application (ORCA) without first providing an annual certification. Further, the proposed rule will set forth Governmentwide policy on the prosecution of small business size and status fraud.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dean R. Koppel, Assistant Director, Office of Policy and Research, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–7322
Fax: 202 481–1540
Email: dean.koppel@sba.gov

RIN: 3245–AG23

SBA — Proposed Rule Stage

481. ● SMALL BUSINESS JOBS ACT: SMALL BUSINESS MENTOR–PROTÉGÉ PROGRAMS

Legal Authority: PL 111–240, sec 1347

Abstract: The U.S. Small Business Administration is proposing regulations to establish mentor-protégé programs for the Service Disabled Veteran-Owned, HUBZone, and Women-Owned Small Business Programs. These mentor-protégé programs will be comparable to the 8(a) Business Development mentor-protégé program set forth in 13 CFR part 124.

Timetable:

Action	Date	FR Cite
NPRM	01/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dean R. Koppel, Assistant Director, Office of Policy and Research, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–7322
Fax: 202 481–1540
Email: dean.koppel@sba.gov

RIN: 3245–AG24

Small Business Administration (SBA) — Final Rule Stage

482. LENDER OVERSIGHT PROGRAM

Legal Authority: 15 USC 634(5)(b)(6),(b)(7),(b)(14),(h) and note; 687(f),697(e)(c)(8), and 650.

Abstract: This rule implements the Small Business Administration's (SBA) statutory authority under the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (Reauthorization Act) to regulate Small Business Lending Companies (SBLCs) and non-federally regulated lenders (NFRLs). It also conforms SBA rules for the section 7(a) Business Loan Program and the Certified Development Company (CDC) Program.

In particular, this rule: (1) Defines SBLCs and NFRLs; (2) clarifies SBA's authority to regulate SBLCs and NFRLs; (3) authorizes SBA to set certain minimum capital standards for SBLCs, to issue cease and desist orders, and revoke or suspend lending authority of SBLCs and NFRLs; (4) establishes the Bureau of Premier Certified Lender Program Oversight in the Office of Credit Risk management; (5) transfers existing SBA enforcement authority over CDCs from the Office of Financial Assistance to the appropriate official in the Office of Capital Access; and (6) defines SBA's oversight and enforcement authorities relative to all SBA lenders participating in the 7(a) and CDC programs and intermediaries in the Microloan program.

Timetable:

Action	Date	FR Cite
NPRM	10/31/07	72 FR 61752
NPRM Comment Period Extended	12/20/07	72 FR 72264
NPRM Comment Period End	02/29/08	
Interim Final Rule	12/11/08	73 FR 75498
Interim Final Rule Comment Period End	03/11/09	
Interim Final Rule Effective	01/12/09	
Final Action	02/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Janet A. Tasker, Deputy Associate Administrator, Office of Capital Access, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–3049
Email: janet.tasker@sba.gov

RIN: 3245–AE14

483. SMALL BUSINESS SIZE REGULATIONS; (8)A BUSINESS DEVELOPMENT/SMALL DISADVANTAGED BUSINESS STATUS DETERMINATION

Regulatory Plan: This entry is Seq. No. 161 in part II of this issue of the **Federal Register**.

RIN: 3245–AF53

484. SMALL BUSINESS, SMALL DISADVANTAGED BUSINESS, HUBZONE, AND SERVICE–DISABLED VETERAN–OWNED PROTEST AND APPEAL REGULATIONS.

Legal Authority: 15 USC 632; 15 USC 634

Abstract: SBA is proposing to standardize protest and appeal regulations across all small business programs and to clarify the effect of a negative determination on the procurement in question. The rule will clarify that an award should not be made to an ineligible concern, and in cases where an award has been made prior to an SBA final decision finding a business to be ineligible, the contracting agency shall either terminate the contract, not exercise an option, or not award further task or delivery orders to the ineligible concern. SBA is also proposing to clarify how contracting officers select NAICS codes for multiple award task and delivery order contracts. The changes recommended were prompted by recent bid protest litigation, a survey of cases handled by SBA's Government Contracting Area Offices, and recent rulings by SBA's Office of Hearings and Appeals.

Timetable:

Action	Date	FR Cite
NPRM	03/01/10	75 FR 9129
NPRM Comment Period End	03/31/10	
Final Action	02/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Khem Sharma, Division Chief, Division of Size Standards, Office of Government Contracting/Business Development, Small Business Administration, 409 Third Street SW, Washington, DC 20416
Phone: 202 205–7189
Fax: 202 205–6390
Email: khem.sharma@sba.gov

RIN: 3245–AF65

485. ● SMALL BUSINESS JOBS ACT: 504 LOAN PROGRAM DEBT REFINANCING

Regulatory Plan: This entry is Seq. No. 162 in part II of this issue of the **Federal Register**.

RIN: 3245–AG17

SBA **Final Rule Stage**

486. ● SMALL BUSINESS JOBS ACT: SMALL BUSINESS INTERMEDIARY LENDING PILOT PROGRAM

Regulatory Plan: This entry is Seq. No. 163 in part II of this issue of the **Federal Register**.

RIN: 3245–AG18

Small Business Administration (SBA) **Long-Term Actions**

487. WOMEN'S BUSINESS CENTER PROGRAM

Legal Authority: 15 USC 656

Abstract: SBA plans to issue regulations for the Women's Business Center (WBC) Program. The WBC provides financial assistance to organizations that provide management and technical assistance to small business concerns owned and controlled by women, and to women wishing to start a small business. The purpose of this proposed rule is to codify a framework for the development, delivery, funding and measurement of management and technical assistance projects conducted by Women's Business Center program grantees.

Timetable:

Action	Date	FR Cite
NPRM	02/00/12	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Ana Harvey
Phone: 202 205–6677
Email: ana.harvey@sba.gov

RIN: 3245–AG02

Small Business Administration (SBA) **Completed Actions**

488. SMALL BUSINESS SIZE STANDARDS: RETAIL TRADE.

Legal Authority: 15 USC 632(a)

Abstract: The United States Small Business Administration (SBA) is modifying 47 small business size standards for industries in North American Industry Classification System (NAICS) Sector 44 45, Retail Trade, and retaining the current standards for the remaining industries in the Sector. In this final rule, SBA is increasing 46 of the size standards and converting the measure of size for one industry (NAICS 441110, New Car Dealers) from annual receipts to number of employees. As part of its ongoing initiative to review all size standards, SBA has evaluated every industry in NAICS Sector 44 45 to determine whether the existing size standards should be retained or revised. This rule also modifies SBA's Small Business Size Regulations to clarify that an NAICS code that represents a Wholesale Trade (NAICS Sector 42) or Retail Trade (NAICS Sector 44 45) Industry shall not be used for the Federal government's procurement of supplies.

Completed:

Reason	Date	FR Cite
Final Rule	10/06/10	75 FR 61597
Final Rule Effective	11/05/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Carl Jordan
Phone: 202 205–6618
Fax: 202 205–6390
Email: carl.jordan@sba.gov

RIN: 3245–AF69

489. SMALL BUSINESS SIZE STANDARDS: OTHER SERVICES

Legal Authority: 15 USC 632(a)

Abstract: The United States Small Business Administration (SBA) is increasing the small business size standards for 18 industries in North American Industry Classification System (NAICS) Sector 81, Other Services, and retaining the current standards for the remaining 30 industries in the Sector. As part of its ongoing initiative to review all size standards, SBA has evaluated every industry in NAICS Sector 81 to determine whether the existing size standards should be retained or revised.

Completed:

Reason	Date	FR Cite
Final Action	10/06/10	75 FR 61591
Final Rule Effective	11/05/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Carl Jordan
Phone: 202 205–6618
Fax: 202 205–6390
Email: carl.jordan@sba.gov

RIN: 3245–AF70

490. SMALL BUSINESS SIZE STANDARDS: ACCOMMODATION AND FOOD SERVICES INDUSTRIES.

Legal Authority: 15 USC 632(a)

Abstract: The United States Small Business Administration (SBA) is increasing small business size standards for five industries in North American Industry Classification System (NAICS) Sector 72, Accommodation and Food Services — namely NAICS 721110, Hotels and Motels, from $7.0 million to $30 million; NAICS 721120, Casino Hotels, from $7.0 million to $30 million; NAICS 722211, Limited Service Restaurants, from $7.0 million to $10 million; NAICS 722212, Cafeterias, from $7.0 million to $25.5 million; and

NAICS 722310, Food Service Contractors, from $20.5 million to $35.5 million. As part of its ongoing initiative to review all size standards, SBA has evaluated every industry in Sector 72 to determine whether the existing size standards should be retained or revised.

Completed:

Reason	Date	FR Cite
Final Action	10/06/10	75 FR 61604
Final Rule Effective	11/05/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Carl Jordan
Phone: 202 205–6618
Fax: 202 205–6390
Email: carl.jordan@sba.gov

RIN: 3245–AF71

491. WOMEN–OWNED SMALL BUSINESS FEDERAL CONTRACT PROGRAM

Legal Authority: 15 USC 637(m)

Abstract: This proposed rule will establish regulations to implement the Women-Owned Small Business (WOSB) Federal Contract Assistance Program, authorized under section 8(m) of the Small Business Act. Section 8(m) was enacted as part of Public Law 106-554 to provide a targeted procurement mechanism to assist Federal agencies in achieving the statutory goal of 5 percent for contracting with WOSBs. In accordance with section 8(m), the new regulations would authorize contracting officers to restrict competition to eligible WOSBs for certain Federal contracts in industries in which SBA has determined that WOSBs are underrepresented or substantially underrepresented in Federal procurement. Also consistent with section 8(m), the authority to restrict competition would be limited to contracts not exceeding $3 million, or $5 million in the case of manufacturing contracts. In implementing section 8(m) the proposed regulations would further provide: the eligible industries in which WOSBs are underrepresented or substantially underrepresented; the specific eligibility requirements for WOSBs to qualify for program participation; the procedures for concerns to certify their eligibility; the process for SBA to verify the continuing WOSB eligibility; the contractual and business development assistance available under the program; the relevant protest and appeal procedures; and the applicable penalties.

Completed:

Reason	Date	FR Cite
Final Action	10/07/10	75 FR 62258
Final Rule Effective	02/04/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Dean R. Koppel
Phone: 202 205–7322
Fax: 202 481–1540
Email: dean.koppel@sba.gov

RIN: 3245–AG06

[FR Doc. 2010–30470 Filed 12–17–10; 8:45 am]

BILLING CODE 8025–01–S

Federal Register

Monday,
December 20, 2010

Part XVIII

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Federal Acquisition Regulation;
Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in compliance with Executive Order 12866 ''Regulatory Planning and Review.'' This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The Regulatory Secretariat Branch has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

Published proposed rules may be reviewed in their entirety at the Government's rulemaking website at http://www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Hada Flowers, Supervisor, Regulatory Secretariat Branch, Room 4041, 1800 F Street, NW., Washington, DC 20405, (202) 501-4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of changes published in the **Federal Register** and produced electronically as Federal Acquisition Circulars (FACs).

The electronic version of the FAR, including changes, can be accessed on the FAR website at http://www.acquisition.gov/far.

Dated: September 10, 2010.

Joseph A. Neurauter,

Senior Procurement Executive, Office of Acquisition Policy.

DOD/GSA/NASA (FAR)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
492	FAR Case 2006-005, HUBZone Program Revisions	9000–AL18
493	FAR Case 2010-008, Recovery Act Subcontract Reporting Procedures	9000–AL63
494	FAR Case 2008-039, Reporting Executive Compensation and First-Tier Subcontract Awards	9000–AL66

DOD/GSA/NASA (FAR)—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
495	FAR Case 2009-009, American Recovery and Reinvestment Act of 2009 (the Recovery Act)—Reporting Requirements	9000–AL21

DOD/GSA/NASA (FAR)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
496	FAR Case 2006-034, Socioeconomic Program Parity	9000–AK92

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Final Rule Stage

492. FAR CASE 2006–005, HUBZONE PROGRAM REVISIONS

Legal Authority: 40 USC 121(c); 10 USC ch 137; 42 USC 2473(c)

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are amending the Federal Acquisition Regulation (FAR) to implement revisions to the Small Business Administration's HUBZone Program as a result of revisions to the Small Business Administration's regulations. This was not a significant regulatory action and, therefore, was not subject to review under section 6 of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
NPRM	04/13/09	74 FR 16823
NPRM Comment Period End	06/12/09	
Final Rule	02/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Karlos Morgan, Procurement Analyst, General Services Administration, 1275 First Street, NE., Washington, DC 20417, Washington, DC 20417
Phone: 202 501–2364
Email: karlos.morgan@gsa.gov

RIN: 9000–AL18

493. ● FAR CASE 2010–008, RECOVERY ACT SUBCONTRACT REPORTING PROCEDURES

Legal Authority: 40 USC 121(c); 10 USC ch 137; 42 USC 2473(c)

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are issuing an interim rule amending the FAR to revise three subparagraphs and add one subparagraph to the clause at FAR 52.204-11. This interim rule does not require renegotiation of existing Recovery Act contracts that include the clause dated March 2009 (published at 74 FR 14639). This change will require first-tier subcontractors with Recovery Act funded awards of $25,000 or more, to report jobs information to the prime contractor for reporting into FederalReporting.gov. It also will require the prime contractor to submit its first report on or before the 10th day after the end of the calendar quarter in which the prime contractor received the award, and quarterly thereafter.

This is a significant regulatory action and, therefore, was subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/02/10	75 FR 38684
Interim Final Rule Comment Period End	08/31/10	
Final Rule	06/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Karlos Morgan, Procurement Analyst, General Services Administration, 1275 First Street, NE., Washington, DC 20417, Washington, DC 20417
Phone: 202 501–2364
Email: karlos.morgan@gsa.gov

RIN: 9000–AL63

494. ● FAR CASE 2008–039, REPORTING EXECUTIVE COMPENSATION AND FIRST–TIER SUBCONTRACT AWARDS

Legal Authority: 40 USC 121(c); 10 USC ch 137; 42 USC 2473(c)

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) have agreed to issue an interim rule to amend the Federal Acquisition Regulation (FAR) to implement section 2 of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282), as amended by section 6202 of Public Law 110-252, which requires the Office of Management and Budget (OMB) to establish a free, public, website containing full disclosure of all Federal contract award information. This rule will require contractors to report executive compensation and first-tier subcontractor awards on contracts expected to be $25,000 or more, except classified contracts, and contracts with individuals. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/08/10	75 FR 39414
Interim Final Rule Comment Period End	09/07/10	
Final Rule	06/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: William Clark, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street, NE., Washington, DC 20417, Washington, DC 20405
Phone: 202 219–1813
Email: william.clark@gsa.gov

RIN: 9000–AL66

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Long-Term Actions

495. FAR CASE 2009–009, AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (THE RECOVERY ACT)—REPORTING REQUIREMENTS

Legal Authority: 40 USC 121(c); 10 USC ch 137; 42 USC 2473(c)

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) are amending the Federal Acquisition Regulation (FAR) to implement section 1512 of Division A of the American Recovery and Reinvestment Act of 2009, which requires contractors to report on their use of Recovery Act funds.

This is a significant regulatory action and, therefore, was subject to Office of Management and Budget (OMB) review under section 6(b) of Executive Order 12866 ''Regulatory Planning and Review,'' dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/31/09	74 FR 14639
Interim Final Rule Comment Period End	06/01/09	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Agency Contact: William Clark, Procurement Analyst, DOD/GSA/NASA (FAR), 1275 First Street, NE., Washington, DC 20417, Washington, DC 20405
Phone: 202 219–1813
Email: william.clark@gsa.gov

RIN: 9000–AL21

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

496. FAR CASE 2006–034, SOCIOECONOMIC PROGRAM PARITY

Legal Authority: 40 USC 121(c); 10 USC ch 137; 42 USC 2473(c)

Abstract: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are amending the Federal Acquisition Regulation (FAR) to ensure that the FAR reflects the Small Business Administration's (SBA) interpretation of the Small Business Act and SBA regulations with regard to the relationship among various small business programs.

This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. The rule is not a major rule under 5 U.S.C. 804.

Completed:

Reason	Date	FR Cite
Withdrawn	09/03/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Karlos Morgan
Phone: 202 501–2364
Email: karlos.morgan@gsa.gov

RIN: 9000–AK92

[FR Doc. 2010–30472 Filed 12–17–10; 8:45 am]

BILLING CODE 6820–EP–S

Federal Register

Monday,
December 20, 2010

Part XIX

Federal Communications Commission

Semiannual Regulatory Agenda

FEDERAL COMMUNICATIONS COMMISSION (FCC)

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions–Fall 2010

AGENCY: Federal Communications Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Twice a year, in spring and fall, the Commission publishes in the **Federal Register** a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act. *See* 5 U.S.C. 602. The Unified Agenda also provides the Code of Federal Regulations citations and legal authorities that govern these proceedings.

ADDRESS: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maura McGowan, Telecommunications Specialist, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, (202) 418-0990.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in its rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared a list of important proceedings now in progress. The General Services Administration publishes the Unified Agenda in the **Federal Register** in the spring and fall of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

Docket Number—assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry concerning the matter under consideration. The Commission has used docket numbers since January 1, 1978. Docket numbers consist of the last two digits of the calendar year in which the docket was established plus a sequential number that begins at 1 with the first docket initiated during a calendar year (*e.g.*, Docket No. 96-1 or Docket No. 99-1). The abbreviation for the responsible bureau usually precedes the docket number, as in ''MM Docket No. 96-222,'' which indicates that the responsible bureau is the Mass Media Bureau (now the Media Bureau). A docket number consisting of only five digits (*e.g.*, Docket No. 29622) indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI)—issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM)—issued by the Commission when it is proposing a specific change to Commission rules and regulations. Before any changes are actually made, interested parties may submit written comments on the proposed revisions.

Further Notice of Proposed Rulemaking (FNPRM)—issued by the Commission when additional comment in the proceeding is sought.

Memorandum Opinion and Order (MO&O)—issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or address a petition for reconsideration of a decision.

Rulemaking (RM) Number—assigned to a proceeding after the appropriate bureau or office has reviewed a petition for rulemaking, but before the Commission has taken action on the petition.

Report and Order (R&O)—issued by the Commission to state a new or amended rule or state that the Commission rules and regulations will not be revised.

Ruth A. Dancey,

Deputy Secretary, Federal Communications Commission.

CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
497	Policies and Rules Governing Interstate Pay-Per-Call and Other Information Services Pursuant to the Telecommunications Act of 1996 (CC Docket Nos. 96-146, 93-22)	3060–AG42
498	Implementation of the Subscriber Selection Changes Provision of the Telecommunications Act of 1996 (CC Docket No. 94-129)	3060–AG46
499	Implementation of the Telecommunications Act of 1996; Access to Telecommunications Service, Telecommunications Equipment, and Customer Premises Equipment by Persons With Disabilities	3060–AG58
500	Telecommunications Relay Services, the Americans With Disabilities Act of 1990, and the Telecommunications Act of 1996 (CC Docket No. 90-571)	3060–AG75
501	Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991 (CG Docket No. 02-278)	3060–AI14
502	Rules and Regulations Implementing Section 225 of the Communications Act (Telecommunications Relay Service) (CG Docket No. 03-123)	3060–AI15
503	Rules and Regulations Implementing the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CG Docket No. 04-53)	3060–AI20
504	Rules and Regulations Implementing Minimum Customer Account Record Exchange (CARE) Obligations on All Local and Interexchange Carriers (CG Docket No. 02-386)	3060–AI58
505	Consumer Information and Disclosure and Truth in Billing and Billing Format	3060–AI61
506	Closed Captioning of Video Programming **(Section 610 Review)**	3060–AI72

FCC

CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
507	Accessibility of Programming Providing Emergency Information	3060–AI75

OFFICE OF ENGINEERING AND TECHNOLOGY—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
508	Revision of the Rules Regarding Ultra-Wideband Transmission	3060–AH47
509	New Advanced Wireless Services (ET Docket No. 00-258)	3060–AH65
510	Exposure to Radiofrequency Electromagnetic Fields	3060–AI17
511	Unlicensed Operation in the TV Broadcast Bands (ET Docket No. 04-186)	3060–AI52
512	Unlicensed Devices and Equipment Approval (ET Docket No. 03-201)	3060–AI54
513	Fixed and Mobile Services in the Mobile Satellite Service (ET Docket No. 10-142)	3060–AJ46

INTERNATIONAL BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
514	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures (IB Docket No. 95-117)	3060–AD70
515	Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band (IB Docket No. 95-91; GEN Docket No. 90-357)	3060–AF93
516	Allocate & Designate: Spectrum for Fixed-Satekkite Service (37.5-38.5, 40.5-41.5 & 48.2-50.2 GHz Bands); Allocate: Fixed & Mobile 40.5-42.5 GHz; Wireless 46.9-47 GHz; Government Operations 37-38 & 40-	3060–AH23
517	Streamlining Earth Station Licensing Rules (IB Docket No. 00-248)	3060–AH60
518	Space Station Licensing Reform (IB Docket No. 02-34)	3060–AH98
519	Mitigation of Orbital Debris (IB Docket No. 02-54)	3060–AI06
520	Amendment of the Commission's Rules (IB Docket No. 04-47)	3060–AI41
521	Reporting Requirements for U.S. Providers of International Telecommunications Services (IB Docket No. 04-112)	3060–AI42
522	Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands (IB Docket No. 02-364)	3060–AI44
523	Amendment of the Commission's Rules To Allocate Spectrum and Adopt Service Rules and Procedures To Govern the Use of Vehicle-Mounted Earth Stations (IB Docket No. 07-101)	3060–AI90

MEDIA BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
524	Cable Television Rate Regulation	3060–AF41
525	Cable Television Rate Regulation: Cost of Service	3060–AF48
526	Cable Home Wiring	3060–AG02
527	Competitive Availability of Navigation Devices (CS Docket No. 97-80)	3060–AG28
528	Cable Horizontal and Vertical Ownership Limits (MM Docket No. 92-264)	3060–AH09
529	Digital Audio Broadcasting Systems (MM Docket No. 99-325)	3060–AH40
530	Second Periodic Review of Rules and Policies Affecting the Conversion to DTV	3060–AH54
531	Direct Broadcast Public Interest Obligations (MM Docket No. 93-25)	3060–AH59
532	Revision of EEO Rules and Policies (MM Docket No. 98-204)	3060–AH95
533	Broadcast Multiple and Cross-Ownership Limits	3060–AH97
534	Establishment of Rules for Digital Low Power Television, Television Translator, and Television Booster Stations (MB Docket No. 03-185)	3060–AI38
535	Joint Sales Agreements in Local Television Markets (MB Docket No. 04-256)	3060–AI55
536	Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services (MB Docket No. 05-210)	3060–AI63
537	Digital Television Distributed Transmission System Technologies (MB Docket No. 05-312)	3060–AI68

FCC

MEDIA BUREAU—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
538	Implementation of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992 (MB Docket No. 05-311)	3060–AI69
539	Program Access Rules—Sunset of Exclusive Contracts Prohibition and Examination of Programming Tying Arrangements (MB Docket Nos. 07-29, 07-198)	3060–AI87
540	Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television (MB Docket No. 07-91)	3060–AI89
541	Broadcast Localism (MB Docket No. 04-233)	3060–AJ04
542	Creating a Low Power Radio Service (MM Docket No. 99-25)	3060–AJ07
543	Sponsorship Identification Rules and Embedded Advertising (MB Docket No. 08-90)	3060–AJ10
544	An Inquiry Into the Commission's Policies and Rules Regarding AM Radio Service Directional Antenna Performance Verification (MM Docket No. 93-177)	3060–AJ17
545	Amendment of Parts 73 and 74 of the Commission's Rules To Establish Rules for Replacement Digital Low Power Television Translator Stations (MB Docket No. 08-253)	3060–AJ18
546	Policies To Promote Rural Radio Service and To Streamline Allotment and Assignment Procedures (MB Docket No. 09-52)	3060–AJ23
547	Promoting Diversification of Ownership in the Broadcast Services (MB Docket No. 07-294)	3060–AJ27
548	Implementation of Section 203 of the Satellite Television Extension and Localism Act of 2010 (STELA) (MB Docket No. 10-148)	3060–AJ43

MEDIA BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
549	Significantly Viewed Out-of-Market Broadcast Stations (MB Docket No. 05-49)	3060–AI56

OFFICE OF MANAGING DIRECTOR—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
550	Assessment and Collection of Regulatory Fees	3060–AI79

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
551	Revision of the Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems	3060–AG34
552	Enhanced 911 Services for Wireline	3060–AG60
553	In the Matter of the Communications Assistance for Law Enforcement Act	3060–AG74
554	Development of Operational, Technical, and Spectrum Requirements for Public Safety Communications Requirements	3060–AG85
555	1998 Biennial Regulatory Review—Review of Accounts Settlement in Maritime Mobile and Maritime Mobile-Satellite Radio Services (IB Docket No. 98-96)	3060–AH30
556	Implementation of 911 Act	3060–AH90
557	Commission Rules Concerning Disruptions to Communications	3060–AI22
558	E911 Requirements for IP-Enabled Service Providers	3060–AI62
559	Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks	3060–AI78
560	Stolen Vehicle Recovery System (SVRS)	3060–AJ01
561	Commercial Mobile Alert System	3060–AJ03
562	Emergency Alert System	3060–AJ33

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WIRELESS TELECOMMUNICATIONS BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
563	Implementation of the Communications Act, Amendment of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap	3060–AG21
564	Service Rules for the 746 to 764 and 776 to 794 MHz Bands, and Revisions to the Commission's Rules	3060–AH32
565	Amendment of Parts 13 and 80 of the Commission's Rules Governing Maritime Communications	3060–AH55
566	Competitive Bidding Procedures	3060–AH57
567	2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services	3060–AH81
568	In the Matter of Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets	3060–AH82
569	Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers	3060–AH83
570	Facilitating the Provision of Spectrum-Based Services to Rural Areas	3060–AI31
571	Improving Public Safety Communications in the 800 MHz Band Industrial/Land Transportation and Business Channels	3060–AI34
572	Review of Part 87 of the Commission's Rules Concerning Aviation (WT Docket No. 01-289)	3060–AI35
573	Implementation of the Commercial Spectrum Enhancement Act (CSEA) and Modernization of the Commission's Competitive Bidding Rules and Procedures (WT Docket No. 05-211)	3060–AI88
574	Facilitating the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands	3060–AJ12
575	Amendment of the Rules Regarding Maritime Automatic Identification Systems (WT Docket No. 04-344)	3060–AJ16
576	Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band	3060–AJ19
577	Service Rules for Advanced Wireless Services in the 1915 to 1920 MHz, 1995 to 2000 MHz, 2020 to 2025 MHz, and 2175 to 2180 MHz Bands	3060–AJ20
578	Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band, WT Docket No. 08-166; Public Interest Spectrum Coalition, Petition for Rulemaking Regarding Low Power Auxiliary	3060–AJ21
579	Amendment of the Commission's Rules To Improve Public Safety Communications in the 800 MHz Band, and To Consolidate the 800 MHz and 900 MHz Business and Industrial/Land Transportation Pool Channels	3060–AJ22
580	Amendment of Part 101 to Accommodate 30 MHz Channels in the 6525-6875 MHz Band and Provide Conditional Authorization on Channels in the 21.8-22.0 and 23.0-23.2 GHz Band (WT Docket No. 04-114)	3060–AJ28
581	In the Matter of Service Rules for the 698 to 746, 747 to 762 and 777 to 792 MHz Bands	3060–AJ35
582	In the Matter of Effects of Communications Towers on Migratory Birds	3060–AJ36
583	Amendment of Part 90 of the Commission's Rules	3060–AJ37
584	Amendment of Part 101 of the Commission's Rules for Microwave Use and Broadcast Auxiliary Service Flexibility	3060–AJ47
585	2004 and 2006 Biennial Regulatory Reviews —Streamlining and Other Revisions of the Commission's Rules Governing Construction, Marking, and Lighting of Antenna Structures	3060–AJ50

WIRELESS TELECOMMUNICATIONS BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
586	Amendments of Various Rules Affecting Wireless Radio Services (WT Docket No. 03-264)	3060–AI30

WIRELINE COMPETITION BUREAU—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
587	Implementation of the Universal Service Portions of the 1996 Telecommunications Act	3060–AF85
588	Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information	3060–AG43
589	Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	3060–AG50
590	Local Telephone Networks That LECs Must Make Available to Competitors	3060–AH44
591	2000 Biennial Regulatory Review—Telecommunications Service Quality Reporting Requirements	3060–AH72
592	Access Charge Reform and Universal Service Reform	3060–AH74
593	Numbering Resource Optimization	3060–AH80
594	National Exchange Carrier Association Petition	3060–AI47
595	IP-Enabled Services	3060–AI48
596	Consumer Protection in the Broadband Era	3060–AI73
597	Establishing Just and Reasonable Rates for Local Exchange Carriers (WC Docket No. 07-135)	3060–AJ02

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WIRELINE COMPETITION BUREAU—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
598	Jurisdictional Separations	3060–AJ06
599	Implementation of NET 911 Improvement Act	3060–AJ09
600	Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering (WC Docket Nos. 08-190, 07-139, 07-204, 07-273, 07-21)	3060–AJ14
601	Petition to Establish Procedural Requirements to Govern Proceedings for Forbearance Under Section 10 of the Communications Act of 1934, as Amended (WC Docket No.07-267)	3060–AJ31
602	Local Number Portability Porting Interval and Validation Requirements (WC Docket No 07-244)	3060–AJ32

Federal Communications Commission (FCC) **Long-Term Actions**

Consumer and Governmental Affairs Bureau

497. POLICIES AND RULES GOVERNING INTERSTATE PAY–PER–CALL AND OTHER INFORMATION SERVICES PURSUANT TO THE TELECOMMUNICATIONS ACT OF 1996 (CC DOCKET NOS. 96–146, 93–22)

Legal Authority: 47 USC 228

Abstract: The Commission received comments on proposed rules designed to implement the 1996 Telecommunications Act with respect to information services to prevent abusive and deceptive practices by entities that might try to circumvent the statutory requirements. The proposed rules address generally the use of dialing sequences other than the 900 service access code to provide information services. The Commission issued an NPRM on these issues July 16, 2004.

Timetable:

Action	Date	FR Cite
NPRM	07/26/96	61 FR 39107
Order	07/26/96	61 FR 39084
NPRM Comment Period End	09/16/96	
Notice to Refresh Record	03/27/03	68 FR 14939
Comment Period End	05/27/03	
NPRM	10/15/04	69 FR 61184
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AG42

498. IMPLEMENTATION OF THE SUBSCRIBER SELECTION CHANGES PROVISION OF THE TELECOMMUNICATIONS ACT OF 1996 (CC DOCKET NO. 94–129)

Legal Authority: 47 USC 154; 47 USC 201; 47 USC 258

Abstract: In December 1998, the Commission established new rules and policies implementing section 258 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, which makes it unlawful for any telecommunications carrier to ''submit or execute a change in a subscriber's selection of a provider of telecommunications exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe.'' The rules provide, among other things, that any telecommunications carrier that violates such verification procedures and that collects charges for telephone exchange service or telephone toll service from a subscriber shall be liable to the carrier previously selected by the subscriber in an amount equal to 150 percent of all charges paid by the subscriber after such violation. In April 2000, the Commission modified the slamming liability rules by giving victims of slamming adequate redress, ensuring that carriers that slam do not profit from their fraud, and allowing States to act as the primary administrator of slamming complaints. In May 2001, the Commission adopted streamlined procedures for the carrier-to-carrier sale or transfer of customer bases.

In February 2003, the Commission adopted a Reconsideration Order and Second FNPRM. The Reconsideration Order addresses, amongst other things, the requirement that a carrier's sales agent drop-off a carrier change request phone call once the customer has been connected to an independent third party verifier, and the applicability of our slamming rules to local exchange carriers. In the Second FNPRM, the Commission sought comment on rule modifications with respect to third party verifications.

On January 4, 2008, the Commission released an Order that confirmed that a LEC that is executing a carrier change on behalf of another carrier may not re-verify whether the person listed on the change order is actually authorized to do so.

On January 9, 2008, the Commission released a Fourth Report and Order that modified the slamming rules regarding the content of independent third party verifications of a consumer's intent to switch carriers.

Timetable:

Action	Date	FR Cite
MO&O on Recon and FNPRM	08/14/97	62 FR 43493
FNPRM Comment Period End	09/30/97	
Second R&O and Second FNPRM	02/16/99	64 FR 7745
First Order on Recon	04/13/00	65 FR 47678
Third R&O and Second Order on Recon	11/08/00	65 FR 66934
Third FNPRM	01/29/01	66 FR 8093
Order	03/01/01	66 FR 12877

Action	Date	FR Cite
First R&O and Fourth R&O	06/06/01	66 FR 30334
Second FNPRM	03/17/03	68 FR 19176
Third Order on Recon	03/17/03	68 FR 19152
Second FNPRM Comment Period End	06/17/03	
First Order on Recon & Fourth Order on Recon	03/15/05	70 FR 12605
Fifth Order on Recon	03/23/05	70 FR 14567
Order	02/04/08	73 FR 6444
Fourth R&O	03/12/08	73 FR 13144
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AG46

499. IMPLEMENTATION OF THE TELECOMMUNICATIONS ACT OF 1996; ACCESS TO TELECOMMUNICATIONS SERVICE, TELECOMMUNICATIONS EQUIPMENT, AND CUSTOMER PREMISES EQUIPMENT BY PERSONS WITH DISABILITIES

Legal Authority: 47 USC 255; 47 USC 251(a)(2)

Abstract: This proceeding is initiated to implement the provisions of sections 255 and 251(a)(2) of the Communications Act and related sections of the Telecommunications Act of 1996 regarding the accessibility of telecommunications equipment and services to persons with disabilities.

Timetable:

Action	Date	FR Cite
R&O	08/14/96	61 FR 42181
NOI	09/26/96	61 FR 50465
NPRM	05/22/98	63 FR 28456
R&O	11/19/99	64 FR 63235
Further NOI	11/19/99	64 FR 63277
Public Notice	01/07/02	67 FR 678
R&O	08/06/07	72 FR 43546
NPRM	11/21/07	72 FR 65494
R&O	05/07/08	73 FR 25566
R&O	06/12/08	73 FR 33324
Public Notice	08/01/08	73 FR 45008
Policy Statement, 2nd R&O and FNPRM (release date)	08/05/10	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AG58

500. TELECOMMUNICATIONS RELAY SERVICES, THE AMERICANS WITH DISABILITIES ACT OF 1990, AND THE TELECOMMUNICATIONS ACT OF 1996 (CC DOCKET NO. 90–571)

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 225

Abstract: This item addresses the requirement that telecommunications relay services be capable of handling any type of call normally provided by common carriers.

Timetable:

Action	Date	FR Cite
NPRM	12/04/90	55 FR 50037
R&O and Request for Comments	08/01/91	56 FR 36729
Order on Recon & Second R&O	03/03/93	58 FR 12175
FNPRM	03/30/93	58 FR 12204
MO&O	11/28/95	60 FR 58626
Order	09/08/97	62 FR 47152
Second NPRM	04/05/01	66 FR 18059
Fifth R&O	02/07/03	68 FR 6352
Fifth R&O (Correction)	02/24/03	68 FR 8553
Public Notice	08/27/04	69 FR 52694
Petitions for Recon of Fifth R&O Denied	09/01/04	69 FR 53346
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AG75

501. RULES AND REGULATIONS IMPLEMENTING THE TELEPHONE CONSUMER PROTECTION ACT (TCPA) OF 1991 (CG DOCKET NO. 02–278)

Legal Authority: 47 USC 227

Abstract: On July 3, 2003, the Commission released a Report and Order establishing, along with the FTC, a national do-not-call registry. The Commission's Report and Order also adopted rules on the use of predictive dialers, the transmission of caller ID information by telemarketers, and the sending of unsolicited fax advertisements.

On September 21, 2004, the Commission released an Order amending existing safe harbor rules for telemarketers subject to the do-not-call registry to require such telemarketers to access the do-not-call list every 31 days, rather than every 3 months.

On April 5, 2006, the Commission adopted a Report and Order and Third Order on Reconsideration amending its facsimile advertising rules to implement the Junk Fax Protection Act of 2005. On October 14, 2008, the Commission released an Order on Reconsideration addressing certain issues raised in petitions for reconsideration and/or clarification of the Report and Order and Third Order on Reconsideration.

On January 4, 2008, the Commission released a Declaratory Ruling, clarifying that autodialed and prerecorded message calls to wireless numbers that are provided by the called party to a creditor in connection with an existing debt are permissible as calls made with the ''prior express consent'' of the called party.

Following a December 4, 2007 NPRM, on June 17, 2008, the Commission released a Report and Order amending its rules to require sellers and/or telemarketers to honor registrations with the National Do-Not-Call Registry indefinitely, unless the registration is cancelled by the consumer or the number is removed by the database administrator.

On January 22, 2010, the Commission released an NPRM proposing to require sellers and telemarketers to obtain express written consent from recipients before making prerecorded telemarketing calls, commonly known as ''robocalls,'' even when the caller has an established business relationship

with the consumer. The proposals also, among other things, would require that prerecorded telemarketing calls include an automated, interactive mechanism by which a consumer may ''opt out'' of receiving future prerecorded messages from a seller or telemarketer.

Timetable:

Action	Date	FR Cite
NPRM	10/08/02	67 FR 62667
FNPRM	04/03/03	68 FR 16250
Order	07/25/03	68 FR 44144
Order Effective	08/25/03	
Order on Recon	08/25/03	68 FR 50978
Order	10/14/03	68 FR 59130
FNPRM	03/31/04	69 FR 16873
Order	10/08/04	69 FR 60311
Order	10/28/04	69 FR 62816
Order on Recon	04/13/05	70 FR 19330
Order	06/30/05	70 FR 37705
NPRM	12/19/05	70 FR 75102
Public Notice	04/26/06	71 FR 24634
Order	05/03/06	71 FR 25967
NPRM	12/14/07	72 FR 71099
Declaratory Ruling	02/01/08	73 FR 6041
R&O	07/14/08	73 FR 40183
Order on Recon	10/30/08	73 FR 64556
NPRM	03/22/10	75 FR 13471
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI14

502. RULES AND REGULATIONS IMPLEMENTING SECTION 225 OF THE COMMUNICATIONS ACT (TELECOMMUNICATIONS RELAY SERVICE) (CG DOCKET NO. 03–123)

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 225

Abstract: This proceeding established a new docket flowing from the previous telecommunications relay service (TRS) history, CC Docket No. 98-67. This proceeding continues the Commission's inquiry into improving the quality of TRS and furthering the goal of functional equivalency, consistent with Congress' mandate that TRS regulations encourage the use of existing technology and not discourage or impair the development of new technology. In this docket, the Commission explores ways to improve emergency preparedness for TRS facilities and services, new TRS technologies, public access to information and outreach, and issues related to payments from the Interstate TRS Fund.

Timetable:

Action	Date	FR Cite
NPRM	08/25/03	68 FR 50993
R&O, Order on Recon	09/01/04	69 FR 53346
FNPRM	09/01/04	69 FR 53382
Public Notice	02/17/05	70 FR 8034
Declaratory Ruling/ Interpretation	02/25/05	70 FR 9239
Public Notice	03/07/05	70 FR 10930
Order	03/23/05	70 FR 14568
Public Notice/ Announcement of Date	04/06/05	70 FR 17334
Order	07/01/05	70 FR 38134
Order on Recon	08/31/05	70 FR 51643
R&O	08/31/05	70 FR 51649
Order	09/14/05	70 FR 54294
Order	09/14/05	70 FR 54298
Public Notice	10/12/05	70 FR 59346
R&O/Order on Recon	12/23/05	70 FR 76208
Order	12/28/05	70 FR 76712
Order	12/29/05	70 FR 77052
NPRM	02/01/06	71 FR 5221
Declaratory Ruling/Clarification	05/31/06	71 FR 30818
FNPRM	05/31/06	71 FR 30848
FNPRM	06/01/06	71 FR 31131
Declaratory Ruling/Dismissal of Petition	06/21/06	71 FR 35553
Clarification	06/28/06	71 FR 36690
Declaratory Ruling on Recon	07/06/06	71 FR 38268
Order on Recon	08/16/06	71 FR 47141
MO&O	08/16/06	71 FR 47145
Clarification	08/23/06	71 FR 49380
FNPRM	09/13/06	71 FR 54009
Final Rule; Clarification	02/14/07	72 FR 6960
Order	03/14/07	72 FR 11789
R&O	08/06/07	72 FR 43546
Public Notice	08/16/07	72 FR 46060
Order	11/01/07	72 FR 61813
Public Notice	01/04/08	73 FR 863
R&O/Declaratory Ruling	01/17/08	73 FR 3197
Order	02/19/08	73 FR 9031
Order	04/21/08	73 FR 21347
R&O	04/21/08	73 FR 21252
Order	04/23/08	73 FR 21843
Public Notice	04/30/08	73 FR 23361
Order	05/15/08	73 FR 28057
Declaratory Ruling	07/08/08	73 FR 38928
FNPRM	07/18/08	73 FR 41307
R&O	07/18/08	73 FR 41286
Public Notice	08/01/08	73 FR 45006
Public Notice	08/05/08	73 FR 45354
Public Notice	10/10/08	73 FR 60172
Order	10/23/08	73 FR 63078
2nd R&O and Order on Recon	12/30/08	73 FR 79683
Order	05/06/09	74 FR 20892
Public Notice	05/07/09	74 FR 21364
NPRM	05/21/09	74 FR 23815
Public Notice	05/21/09	74 FR 23859
Public Notice	06/12/09	74 FR 28046
Order	07/29/09	74 FR 37624
Public Notice	08/07/09	74 FR 39699
Order	09/18/09	74 FR 47894
Order	10/26/09	74 FR 54913
Public Notice	05/12/10	75 FR 26701
Order Deying Stay Motion (release date)	07/09/10	
Order	08/13/10	75 FR 49491
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI15

503. RULES AND REGULATIONS IMPLEMENTING THE CONTROLLING THE ASSAULT OF NON–SOLICITED PORNOGRAPHY AND MARKETING ACT OF 2003 (CG DOCKET NO. 04–53)

Legal Authority: 15 USC 7706; 15 USC 7712; PL 108–187

Abstract: The Commission has adopted rules to protect consumers from unwanted electronic mobile service messages to implement the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003.

Timetable:

Action	Date	FR Cite
NPRM	03/31/04	69 FR 16873
NPRM Comment Period End	05/17/04	
Order	09/16/04	69 FR 55765
Order	06/15/05	70 FR 34665
Order on Recon (release date)	03/22/07	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI20

504. RULES AND REGULATIONS IMPLEMENTING MINIMUM CUSTOMER ACCOUNT RECORD EXCHANGE (CARE) OBLIGATIONS ON ALL LOCAL AND INTEREXCHANGE CARRIERS (CG DOCKET NO. 02–386)

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 and 202; 47 USC 303(r)

Abstract: On December 20, 2002, the Commission issued a Public Notice directing interested parties to file comments on issues raised in a petition filed with the Commission by Americatel Corporation and on a separate petition filed by AT&T, Sprint, and MCI. The petitions asked the Commission to address problems relating to the exchange of customer account records between local and long distance telephone service providers. On March 25, 2004, the Commission released a Notice of Proposed Rulemaking (NPRM) in CG Docket No. 02-386 seeking further comment on the two petitions and seeking comment as to whether to replace the current voluntary industry process for the exchange of customer account information between local and long distance service providers with mandatory, minimum standards applicable to all such providers.

On February 25, 2005, the Commission released a Report and Order and Further Notice of Proposed Rulemaking in CG Docket No. 02-386. The Report and Order adopted final rules governing the exchange of customer account information between local and long distance telephone service providers. The Commission adopted these rules to help to ensure that consumers' phone service bills are accurate and that their carrier selection requests are honored and executed without undue delay. In the Further Notice of Proposed Rulemaking (FNPRM), the Commission sought comment on the need for rules governing the exchange of customer account information between local telephone service providers.

On April 15, 2005, and June 15, 2005, a coalition of local and long distance carriers proposed minor modifications and clarifications to section 64.4002 of the Commission's CARE rules. On August 29, 2005, the Commission released a public notice requesting comment on the coalition's proposed clarifications and modifications. Notice of the proposed changes was published in the Federal Register on September 7, 2005 (70 FR 53137). The comment cycle established by the August 29 public notice closed October 3, 2005.

On September 13, 2006, the Commission released an Order on Reconsideration adopting the clarifications and technical corrections to the Report and Order, as proposed by the coalition of carriers.

On December 21, 2007, the Commission released a Report and Order declining to adopt mandatory data exchange requirements between local exchange carriers.

Timetable:

Action	Date	FR Cite
NPRM	04/19/04	69 FR 20845
NPRM Comment Period End	06/18/04	
R&O and FNPRM	06/02/05	70 FR 32258
FNPRM Comment Period End	08/01/05	
Public Notice	08/29/05	70 FR 53137—01
Public Notice Comment Period End	10/03/05	
Order on Recon	12/13/06	71 FR 74819
R&O	01/08/08	73 FR 1297
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI58

505. CONSUMER INFORMATION AND DISCLOSURE AND TRUTH IN BILLING AND BILLING FORMAT

Legal Authority: 47 USC 201; 47 USC 258

Abstract: In 1999, the Commission adopted truth-in-billing rules to address concerns that there is consumer confusion relating to billing for telecommunications services. On March 18, 2005, the Commission released an Order and FNPRM to further facilitate the ability of telephone consumers to make informed choices among competitive service offerings.

On August 28, 2009, the Commission released a Notice of Inquiry which asks questions about information available to consumers at all stages of the purchasing process for all communications services, including (1) choosing a provider; (2) choosing a service plan; (3) managing use of the service plan; and (4) deciding whether and when to switch an existing provider or plan.

Timetable:

Action	Date	FR Cite
FNPRM	05/25/05	70 FR 30044
R&O	05/25/05	70 FR 29979
NOI	08/28/09	
Public Notice Notice	05/20/10	75 FR 28249
Public Notice	06/11/10	75 FR 33303
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI61

506. CLOSED CAPTIONING OF VIDEO PROGRAMMING (SECTION 610 REVIEW)

Legal Authority: 47 USC 613

Abstract: The Commission's closed captioning rules are designed to make video programming more accessible to deaf and hard of hearing Americans. This proceeding resolves some issues regarding the Commission's closed captioning rules that were raised for comment in 2005, and also seeks comment on how a certain exemption from the closed captioning rules should be applied to digital multicast broadcast channels.

Timetable:

Action	Date	FR Cite
NPRM	02/03/97	62 FR 4959
R&O	09/16/97	62 FR 48487
NPRM	09/26/05	70 FR 56150
Order on Recon	10/28/98	63 FR 55959
Order and Declaratory Ruling	01/13/09	74 FR 1594

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Action	Date	FR Cite
NPRM	01/13/09	74 FR 1654
Final Rule	02/19/10	75 FR 7370
Announcement of Effective Date		
Order	02/19/10	75 FR 7368
Order Suspending Effective Date	02/19/10	75 FR 7369
Final Rule Correction	09/11/09	74 FR 46703

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI72

507. ACCESSIBILITY OF PROGRAMMING PROVIDING EMERGENCY INFORMATION

Legal Authority: 47 USC 613

Abstract: In this proceeding, the Commission adopted rules detailing how video programming distributors must make emergency information accessible to persons with hearing and visual disabilities.

Timetable:

Action	Date	FR Cite
FNPRM	01/21/98	63 FR 3070
NPRM	12/01/99	64 FR 67236
NPRM Correction	12/22/99	64 FR 71712
2nd R&O	05/09/00	65 FR 26757
R&O	09/11/00	65 FR 54805

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI75

Federal Communications Commission (FCC) — Long-Term Actions
Office of Engineering and Technology

508. REVISION OF THE RULES REGARDING ULTRA–WIDEBAND TRANSMISSION

Legal Authority: 47 USC 154; 47 USC 302 to 304; 47 USC 307; 47 USC 544A

Abstract: The First Report and Order amends the Commission's rules to permit the marketing and operation of certain types of new products incorporating Ultra-Wideband (UWB) technology. UWB devices operate by employing very narrow or short duration pulses that result in very large or wideband transmission bandwidths. UWB technology holds great promise for a vast array of new applications that we believe will provide significant benefits for public safety, businesses and consumers. With appropriate technical standards, UWB devices can operate using spectrum occupied by existing radio services without causing interference, thereby permitting scarce spectrum resources to be used more efficiently.

The Memorandum Opinion and Order responded to fourteen petitions for reconsideration that were filed in response to the regulations for unlicensed ultra-wideband (UWB) operations. In general, this document does not make any significant changes to the existing UWB parameters as the Commission is reluctant to do so until it has more experience with UWB devices. The Commission believes that any major changes to the rules for existing UWB product categories at this early stage would be disruptive to current industry product development efforts.

The Further Notice of Proposed Rulemaking proposed new rules to address issues raised by some of the petitions for reconsideration that were outside the scope of the proceeding. New rules were proposed to address issues regarding the operation of low pulse repetition frequency UWB systems, including vehicular radars, in the 3.1-10.6 GHz band; and the operation frequency hopping vehicular radars in the 22-29 GHz band as UWB devices. The Commission also proposed new rules that would establish new peak power limits for wideband part 15 devices that do no operate as UWB devices and proposed to eliminate the definition of a UWB device.

The Second Report and Order and Second Memorandum Opinion and Order responds to two petitions for reconsideration that were filed in response to the Commission's decision to establish regulations for unlicensed UWB operation. It also responds to the rulemaking proposals contained in the Memorandum Opinion and Order and Further Notice of Proposed Rulemaking in this docket. The order establishes new rules for wideband unlicensed devices operating in the 5925-7250 MHz, 16.2-17.7 GHz, and 22.12-29 GHz bands.

Timetable:

Action	Date	FR Cite
NPRM	06/14/00	65 FR 37332
NPRM Comment Period End	10/12/00	
First R&O	05/16/02	67 FR 34852
MO&O	04/22/03	68 FR 19746
FNPRM	04/22/03	68 FR 19773
Second R&O and Second MO&O	02/09/05	70 FR 6771

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH47

509. NEW ADVANCED WIRELESS SERVICES (ET DOCKET NO. 00–258)

Legal Authority: 47 USC 154(i); 47 USC 157(a); 47 USC 303(c); 47 USC 303(f); 47 USC 303(g); 47 USC 303(r)

Abstract: This proceeding explores the possible uses of frequency bands below 3 GHz to support the introduction of new advanced wireless services, including third generations as well as future generations of wireless systems. Advanced wireless systems could provide for a wide range of voice data

and broadband services over a variety of mobile and fixed networks.

The Third Notice of Proposed Rulemaking discusses the frequency bands that are still under consideration in this proceeding and invites additional comments on their disposition. Specifically, it addresses the Unlicensed Personal Communications Service (UPCS) band at 1910-1930 MHz, the Multipoint Distribution Service (MDS) spectrum at 2155-2160/62 MHz bands, the Emerging Technology spectrum, at 2160-2165 MHz, and the bands reallocated from MSS 91990-2000 MHz, 2020-2025 MHz, and 2165-2180 MHz. We seek comment on these bands with respect to using them for paired or unpaired Advance Wireless Service (AWS) operations or as relocation spectrum for existing services.

The 7th Report and Order facilitates the introduction of Advanced Wireless Service (AWS) in the band 1710-1755 MHz—an integral part of a 90 MHz spectrum allocation recently reallocated to allow for such new and innovative wireless services. We largely adopt the proposals set forth in our recent AWS Fourth NPRM in this proceeding that are designed to clear the 1710-1755 MHz band of incumbent Federal Government operations that would otherwise impede the development of new nationwide AWS services. These actions are consistent with previous actions in this proceeding and with the United States Department of Commerce, National Telecommunications and Information Administration (NTIA) 2002 Viability Assessment, which addressed relocation and reaccommodation options for Federal Government operations in the band.

The 8th Report and Order reallocated the 2155-2160 MHz band for Fixed and Mobile services and designates the 2155-2175 MHz band for Advanced Wireless Service (AWS) use. This proceeding continues the Commission's ongoing efforts to promote spectrum utilization and efficiency with regard to the provision of new services, including Advanced Wireless Services.

The Order requires Broadband Radio Service (BRS) licensees in the 2150-2160/62 MHz band to provide information on the construction status and operational parameters of each incumbent BRS system that would be the subject of relocation.

The Notice of Proposed Rule Making requested comments on the specific relocation procedures applicable to Broadband Radio Service (BRS) operations in the 2150-2160/62 MHz band, which the Commission recently decided will be relocated to the newly restructured 2495-2690 MHz band. The Commission also requested comments on the specific relocation procedures applicable to Fixed Microwave Service (FS) operations in the 2160-2175 MHz band.

The Office of Engineering and Technology (OET) and the Wireless Telecommunications Bureau (WTB) set forth the specific data that Broadband Radio Service (BRS) licensees in the 2150-2160/62 MHz band must file along with the deadline date and procedures for filing this data on the Commission's Universal Licensing System (ULS). The data will assist in determining future AWS licensee's relocation obligations.

The 9th Report and Order established procedures for the relocation of Broadband Radio Service (BRS) operations from the 2150-2160/62 MHz band, as well as for the relocation of Fixed Microwave Service (FS) operations from the 2160-2175 MHz band, and modified existing relocation procedures for the 2110-2150 MHz and 2175-2180 MHz bands. It also established cost-sharing rules to identify the reimbursement obligations for Advanced Wireless Service (AWS) and Mobile Satellite Service (MSS) entrants benefiting from the relocation of incumbent FS operations in the 2110-2150 MHz and 2160-2200 MHz bands and AWS entrants benefiting from the relocation of BRS incumbents in the 2150-2160/62 MHz band. The Commission continues its ongoing efforts to promote spectrum utilization and efficiency with regard to the provision of new services, including AWS. The Order dismisses a petition for reconsideration filed by the Wireless Communications Association International, Inc. (WCA) as moot.

Two petitions for Reconsideration were filed in response to the 9th Report and Order.

Timetable:

Action	Date	FR Cite
NPRM	01/23/01	66 FR 7438
NPRM Comment Period End	03/09/01	
Final Report	04/11/01	66 FR 18740
FNPRM	09/13/01	66 FR 47618
MO&O	09/13/01	66 FR 47591
First R&O	10/25/01	66 FR 53973
Petition for Recon	11/02/01	66 FR 55666
Second R&O	01/24/03	68 FR 3455
Third NPRM	03/13/03	68 FR 12015
Seventh R&O	12/29/04	69 FR 7793
Petition for Recon	04/13/05	70 FR 19469
Eighth R&O	10/26/05	70 FR 61742
Order	10/26/05	70 FR 61742
NPRM	10/26/05	70 FR 61752
Public Notice	12/14/05	70 FR 74011
Ninth R&O and Order	05/24/06	71 FR 29818
Petition for Recon	07/19/06	71 FR 41022
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH65

510. EXPOSURE TO RADIOFREQUENCY ELECTROMAGNETIC FIELDS

Legal Authority: 47 USC 151; 47 USC 302 and 303; 47 USC 309(j); 47 USC 336

Abstract: The Notice of Proposed Rulemaking (NPRM) proposed amendments to the FCC rules relating to compliance of transmitters and facilities with guidelines for human exposure to radio frequency (RF) energy.

Timetable:

Action	Date	FR Cite
NPRM	09/08/03	68 FR 52879
NPRM Comment Period End	12/08/03	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI17

511. UNLICENSED OPERATION IN THE TV BROADCAST BANDS (ET DOCKET NO. 04–186)

Legal Authority: 47 USC 154(i); 47 USC 302; 47 USC 303(e) and 303(f); 47 USC 303(r); 47 USC 307

Abstract: The Commission adopted rules to allow unlicensed radio transmitters to operate in the broadcast television spectrum at locations where that spectrum is not being used by licensed services (this unused TV spectrum is often termed ''white spaces''). This action will make a significant amount of spectrum available for new and innovative products and services, including broadband data and other services for businesses and consumers. The actions taken are a conservative first step that includes many safeguards to prevent harmful interference to incumbent communications services. Moreover, the Commission will closely oversee the development and introduction of these devices to the market and will take whatever actions may be necessary to avoid, and if necessary correct, any interference that may occur.

Timetable:

Action	Date	FR Cite
NPRM	06/18/04	69 FR 34103
First R&O	11/17/06	71 FR 66876
FNPRM	11/17/06	71 FR 66897
R&O and MO&O	02/17/09	74 FR 7314
Petitions for Reconsideration	04/13/09	74 FR 16870
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI52

512. UNLICENSED DEVICES AND EQUIPMENT APPROVAL (ET DOCKET NO. 03–201)

Legal Authority: 47 USC 154; 47 USC 302(a); 47 USC 303; 47 USC 306

Abstract: The Notice of Proposed Rulemaking (NPRM) proposed to update section 15.247 of the rules to allow the use of more efficient antenna technologies with unlicensed devices. The Report and Order updates several technical rules for unlicensed radiofrequency devices in part 15 of the Commission's rules. The rule changes will allow device manufacturers to develop expanded applications for unlicensed devices and will allow unlicensed device operators, including Wireless Internet Service providers greater flexibility to modify or substitute parts as long as the overall system operation is unchanged. The changes are part of an ongoing process of updating our rules to promote more efficient sharing of spectrum used by unlicensed devices and remove unnecessary regulations that inhibit such sharing. The Commission received one petition for reconsideration in this proceeding.

The Second Report and Order amended the Commission's rules to provide for more efficient equipment authorization of both existing modular transmitter devices and emerging partitioned (or ''split'') modular transmitter devices. These rule changes will benefit manufacturers by allowing greater flexibility in certifying equipment and providing relief from the need to obtain a new equipment authorization each time the same transmitter is installed in a different final product. The rule changes will also enable manufacturers to develop more flexible and more advanced unlicensed transmitter technologies. The Commission further found that modular transmitter devices authorized in accordance with the revised equipment authorization procedures will not pose any increased risk of interference to other radio operations.

The Further NPRM, seeks comment on whether there is a need to require unlicensed transmitters operating in the 915 MHz band under sections 15.247 and 15.249 of the rules to comply with a spectrum etiquette requirement, and the impact that requiring an etiquette would have on the development and operation of unlicensed 915 MHz devices operating under those rule sections. The Commission also seeks comment on the particular etiquette suggested by Cellnet that would require digitally modulated spread spectrum transmitters operating in the 915 MHz band under section 15.247 of the rules to operate at less than the 1-watt maximum power if they are continuously silent less than 90 percent of the time within a 0.4 second interval. This etiquette would require that the maximum permitted power level decrease in accordance with a specified formula as the silent interval between transmission decreases. The Commission further seeks comment on alternatives to the etiquette suggested by Cellnet.

The Memorandum Opinion and Order dismissed two petitions for reconsideration of the rules adopted in the Report and Order, 69 FR 54027, September 7, 2004, in this proceeding. It dismissed a petition for reconsideration filed by Warren C. Havens and Telesaurus Holdings GB LLC (Havens) requesting that the Commission suspend the rule changes adopted for unlicensed devices in the 902-928 MHz (915 MHz) band until such time as it completes a formal inquiry with regard to the potential effect of such changes to Location and Monitoring Service (LMS) licensees in the band. The Commission also dismissed a petition for reconsideration filed by Cellnet Technology (Cellnet) requesting that the Commission adopt spectrum sharing requirements in the unlicensed bands, for example, a ''spectrum etiquette,'' particularly in the 915 MHz band.

Timetable:

Action	Date	FR Cite
NPRM	09/17/03	68 FR 68823
NPRM Comment Period End	01/09/04	
R&O	09/07/04	69 FR 54027
Petition for Recon	11/19/04	69 FR 67736
Petition for Recon	02/15/05	70 FR 7737
Second R&O	05/23/07	72 FR 28889
FNPRM	08/01/07	72 FR 42011
FNPRM Comment Period End	10/15/07	
MO&O	08/01/07	72 FR 41937
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI54

FCC—Office of Engineering and Technology — Long-Term Actions

513. ● FIXED AND MOBILE SERVICES IN THE MOBILE SATELLITE SERVICE (ET DOCKET NO. 10–142)

Legal Authority: 47 USC 154 (i) and 301; 47 USC 303(c) and 303(f); 47 USC 303(r) and 303(y); 47 USC 310

Abstract: The Notice of Proposed Rule Making proposes to take a number of actions to further the provision of terrestrial broadband services in the MSS bands. In the 2 GHz MSS band, the Commission proposes to add co-primary Fixed and Mobile allocations to the existing Mobile-Satellite allocation. This will lay the groundwork for providing additional flexibility in use of the 2 GHz spectrum in the future. The Commission also proposes to apply the terrestrial secondary market spectrum leasing rules and procedures to transactions involving terrestrial use of the MSS spectrum in the 2 GHz, Big LEO, and L-bands in order to create greater certainty and regulatory parity with bands licensed for terrestrial broadband service.

The Commission also asks, in a Notice of Inquiry, about approaches for creating opportunities for full use of the 2 GHz band for stand-alone terrestrial uses. The Commission requests comment on ways to promote innovation and investment throughout the MSS bands while also ensuring market-wide mobile satellite capability to serve important needs like disaster recovery and rural access.

Timetable:

Action	Date	FR Cite
NPRM	08/16/10	75 FR 49871
NPRM Comment Period End	09/15/10	
Reply Comment Period End	09/30/10	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ46

Federal Communications Commission (FCC) — Long-Term Actions
International Bureau

514. STREAMLINING THE COMMISSION'S RULES AND REGULATIONS FOR SATELLITE APPLICATION AND LICENSING PROCEDURES (IB DOCKET NO. 95–117)

Legal Authority: 47 USC 4; 47 USC 154; 47 USC 303; 47 USC 554; 47 USC 701 to 744

Abstract: On February 10, 1997, the FCC adopted rules and policies that streamlined the application and licensing requirements of part 25 of its rules, which deals with communication satellites and earth stations. The streamlined rules waived the construction permit requirement for satellite space stations, changed the license term for temporary fixed earth stations; and adjusted or changed the rules concerning minor modifications and basic requirements for satellite service applications. The streamlined rules also resulted in the creation of a new application form, FCC Form 312. Form 312 eliminated from the International Bureau's use of the FCC Form 493, FCC Form 430, FCC Form 702, and FCC Form 704. Petitions for Reconsideration were filed in this matter. In March 1997, the Commission released a Public Notice concerning these petitions. The Commission addressed the issues in the Petitions for Reconsideration in an Order released on October 10, 2008. The docket in this proceeding is now closed.

Timetable:

Action	Date	FR Cite
NPRM	09/09/95	60 FR 46252
R&O, Recon Pending	02/10/97	62 FR 5924
Public Notice/Petitions for Recon	03/26/97	62 FR 14430
Order on Reconsideration	11/29/08	73 FR 70897

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AD70

515. ESTABLISHMENT OF RULES AND POLICIES FOR THE DIGITAL AUDIO RADIO SATELLITE SERVICE IN THE 2310–2360 MHZ FREQUENCY BAND (IB DOCKET NO. 95–91; GEN DOCKET NO. 90–357)

Legal Authority: 47 USC 151; 47 USC 151(i); 47 USC 154(j); 47 USC 157; 47 USC 309(j)

Abstract: In 1997, the Commission adopted service rules for the satellite digital audio radio service (SDARS) in the 2320-2345 MHz frequency band and sought further comment on proposed rules governing the use of complementary SDARS terrestrial repeaters. The Commission released a second further notice of proposed rulemaking in January 2008 to consider new proposals for rules to govern terrestrial repeaters operations. The Commission released a Second Report and Order on May 20, 2010, which adopted rules governing the operation of SDARS terrestrial repeaters, including establishing a blanket licensing regime for repeaters operating up to 12 kilowatts average equivalent isotropically radiated power.

Timetable:

Action	Date	FR Cite
NPRM	06/15/95	60 FR 35166
R&O	03/11/97	62 FR 11083
FNPRM	04/18/97	62 FR 19095
Second FNPRM	01/15/08	73 FR 2437
FNPRM Comment Period End	03/17/08	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AF93

516. ALLOCATE & DESIGNATE: SPECTRUM FOR FIXED–SATEKKITE SERVICE (37.5–38.5, 40.5–41.5 & 48.2–50.2 GHZ BANDS); ALLOCATE: FIXED & MOBILE 40.5–42.5 GHZ; WIRELESS 46.9–47 GHZ; GOVERNMENT OPERATIONS 37–38 & 40–

Legal Authority: 47 USC 154(i); 47 USC 301 and 302; 47 USC 303(e) to 303(g); 47 USC 303(r); 47 USC 304; 47 USC 307

Abstract: This item adopts a plan for nongovernment operations in the 36.0-51.4 GHz portion of the V-band, establishing priorities for different services in different parts of this band.

Timetable:

Action	Date	FR Cite
NPRM	04/04/97	62 FR 16129
R&O	01/15/99	64 FR 2585
Correction	02/08/99	64 FR 6138
Correction	02/10/99	64 FR 6565
Notice of Petition for Recon	03/22/99	64 FR 13796
Order on Recon	12/01/99	
FNPRM	07/05/01	66 FR 35399
Second R&O	08/25/04	69 FR 52198
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH23

517. STREAMLINING EARTH STATION LICENSING RULES (IB DOCKET NO. 00–248)

Legal Authority: 47 USC 701 to 744

Abstract: The Commission has found several cases in which modifying or eliminating rules could facilitate licensing of earth stations, thereby expediting the provision of useful satellite services to the public, without unreasonably increasing the risk of harmful interference to existing earth station or space station operators, or terrestrial wireless operators in shared frequency bands.

Specifically, this Notice of Proposed Rulemaking (NPRM) considers the following rule revisions: (1) Codifying streamlined procedures for case-by-case examination of earth stations using ''non-routine'' antennas, non-routine power levels, or both; (2) relaxing some current requirements, such as increasing power and power density limits, and allowing some temporary fixed earth stations to begin operation sooner than is now permitted; (3) streamlining the very small aperture terminal (VSAT) rules, and revising the Commission's power level rules to provide for various types of VSAT multiple access methods; (4) adopting a simplified license application form for ''routine'' earth stations; and (5) other miscellaneous rule revisions. The Commission also invites comment on extending these proposed rules to the KA-band.

On September 26, 2002, the Commission adopted a Further Notice of Proposed Rulemaking in this proceeding. This Further NPRM invited comment on refinements to the proposals in the NPRM to relax some earth station technical requirements, and on an alternative to the VSAT proposals in the NPRM. The Further NPRM also seeks comment on proposals made by commenters in response to the First NPRM.

In the First Report and Order in this proceeding, the Commission extended the license term for earth station licenses from 10 to 15 years.

In the Second Report and Order in this proceeding, the Commission adopted rules allowing unlicensed receive-only earth stations to receive transmissions from non-U.S.-licensed satellites on the Permitted List.

In the Third Report and Order in this proceeding, the Commission adopted a streamlined application form for certain earth station licenses, and adopted a mandatory electronic filing requirement for those earth station applications.

In the Fourth Report and Order in this proceeding, the Commission extended the mandatory electronic filing requirement to all earth station applications.

In the Fifth Report and Order in this proceeding, the Commission adopted the following proposals from the NPRM: (1) Codifying streamlined procedures for non-routine antennas; (2) relaxing power and power density limits, and allowing routine KU-band temporary fixed earth stations to begin operations sooner; (3) revising certain VSAT rules; and (4) other miscellaneous rule revisions. One petition for reconsideration was filed in response to this Order on July 5, 2005.

In the Sixth Report and Order in this proceeding, the Commission adopted revisions to the earth station antenna gain pattern requirements, as proposed in the Further Notice. Two petitions for reconsideration were filed in response to this Order on July 8, 2005.

In the Third Further Notice of Proposed Rulemaking, the Commission invited comment on adopting off-axis EIRP envelops for C-band and KU-band FSS earth stations.

In the Seventh Report and Order in this proceeding, the Commission considered and rejected its proposal in the NPRM to make revisions to part 23 of its rules.

In the Eighth Report and Order in this proceeding, the Commission adopted the proposals in the Third FNPRM, in large part. This proceeding is now closed.

Timetable:

Action	Date	FR Cite
NPRM	01/08/01	66 FR 1283
First R&O	03/19/02	67 FR 12485
FNPRM	12/24/02	67 FR 78399
Second R&O (Release Date)	06/20/03	68 FR 2247
Second FNPRM	09/12/03	68 FR 53702
Third R&O	11/12/03	68 FR 63994
Fourth R&O	08/06/04	69 FR 47790
Fifth R&O	06/02/05	70 FR 32249
Sixth R&O	06/08/05	70 FR 33373
Third FNPRM	06/08/05	70 FR 33426
Seventh R&O	09/28/05	70 FR 56580
Public Notice/Petition for Recon	10/26/05	70 FR 61825
Eighth R&O	11/24/08	73 FR 70897
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH60

518. SPACE STATION LICENSING REFORM (IB DOCKET NO. 02–34)

Legal Authority: 47 USC 154(i); 47 USC 157; 47 USC 303(c); 47 USC 303(g); . . .

Abstract: The Commission adopted a Notice or Proposed Rulemaking

(NPRM) to streamline its procedures for reviewing satellite license applications. Before 2003, the Commission used processing rounds to review those applications. In a processing round, when an application is filed, the International Bureau (Bureau) issued a public notice establishing a cut-off date for other mutually exclusive satellite applications, and then considered all those applications together. In cases where sufficient spectrum to accommodate all the application was not available, the Bureau directed the applicants to negotiate a mutually agreeable solution. Those negotiations took a long time, and delayed provision of satellite services to the public.

The NPRM invited comment on two alternatives for expediting the satellite application process. One alternative was to replace the processing round procedure with a ''first-come, first-served'' procedure that would allow the Bureau to issue a satellite license to the first party filing a complete, acceptable application. The other alternative was to streamline the processing round procedure by adopting one or more of the following proposals: (1) Place a time limit on negotiations; (2) established criteria to select among competing applicants; (3) divide the available spectrum evenly among the applicants.

In the First Report and Order in this proceeding, the Commission determined that different procedures were better-suited for different kinds of satellite applications. For most geostationary orbit (GSO) satellite applications, the Commission adopted a first-come, first-served approach. For most non-geostationary orbit (NGSO) satellite applications, the Commission adopted a procedure in which the available spectrum is divided evenly among the qualified applicants. The Commission also adopted measures to discourage applicants from filing speculative applications, including a bond requirement, payable if a licensee misses a milestone. The bond amounts originally were $5 million for each GSO satellite, and $7.5 million for each NGSO satellite system. These were interim amounts. Concurrently with the First Report and Order, the Commission adopted an FNPRM to determine whether to revise the bond amounts on a long-term basis.

In the Second Report and Order, the Commission adopted a streamlined procedure for certain kinds of satellite license modification requests.

In the Third Report and Order, the Commission adopted a standardized application form for satellite licenses, and adopted a mandatory electronic filing requirement for certain satellite applications.

In the Fourth Report and Order, the Commission revised the bond amounts based on the record developed in response to FNPRM. The bond amounts are now $3 million for each GSO satellite, and $5 million for each NGSO satellite system.

Timetable:

Action	Date	FR Cite
NPRM	03/19/02	67 FR 12498
NPRM Comment Period End	07/02/02	
Second R&O (Release Date)	06/20/03	68 FR 62247
Second FNPRM (Release Date)	07/08/03	68 FR 53702
Third R&O (Release Date)	07/08/03	68 FR 63994
FNPRM	08/27/03	68 FR 51546
First R&O	08/27/03	68 FR 51499
FNPRM Comment Period End	10/27/03	
Fourth R&O (Release Date)	04/16/04	69 FR 67790
Fifth R&O, First Order on Recon (Release Date)	07/06/04	69 FR 51586
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH98

519. MITIGATION OF ORBITAL DEBRIS (IB DOCKET NO. 02–54)

Legal Authority: 47 USC 154(i); 47 USC 157(a); 47 USC 303(c); 47 USC 303(f) and 303(g); 47 USC 303(r)

Abstract: The Commission has adopted rules that require all entities seeking FCC authorization for satellite services to address orbital debris mitigation as part of their application for FCC authorization. Orbital debris consists of artificial objects orbiting the Earth that are not functional spacecraft. In addition, the Commission established requirements for the removal of geostationary spacecraft from operational orbits at the end of their useful lives and amended the Commission's rules regarding orbit-raising maneuvers, the use of inclined orbits, and orbital longitudinal tolerance station-keeping requirements. The Commission indicated that it will seek further comment on the application of the Commission's longitudinal tolerance station-keeping requirements for Fixed-Satellite space stations to space stations in the Mobile-Satellite Service and remote sensing services.

Timetable:

Action	Date	FR Cite
NPRM	05/03/02	67 FR 22376
NPRM Comment Period End	08/16/02	
First R&O	08/27/03	68 FR 59127
Second R&O	09/09/04	69 FR 54581
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI06

520. AMENDMENT OF THE COMMISSION'S RULES (IB DOCKET NO. 04–47)

Legal Authority: 47 USC 34 to 39; 47 USC 151; 47 USC 161; 47 USC 201 to 205; . . .

Abstract: FCC amended several rules. Specifically, FCC: (1) Amended the procedures for discontinuing an international service; (2) allowed U.S. carriers to resell the U.S.-inbound service of foreign carriers; and (3) amended the submarine cable landing licensing procedures compliance with the Coastal Zone Management Act of 1972. The North American Submarine Cable Association filed a petition for reconsideration regarding the amendment to the submarine cable licensing procedures.

Timetable:

Action	Date	FR Cite
NPRM	03/22/04	69 FR 13276

Action	Date	FR Cite
NPRM Comment Period End	06/07/04	
R&O	09/25/07	72 FR 54363
Petition for Recon	01/02/08	73 FR 187

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI41

521. REPORTING REQUIREMENTS FOR U.S. PROVIDERS OF INTERNATIONAL TELECOMMUNICATIONS SERVICES (IB DOCKET NO. 04–112)

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 161; 47 USC 201 to 205; . . .

Abstract: FCC is reviewing the reporting requirements to which carriers providing U.S. international services are subject under 47 CFR part 43. FCC proposes to amend 47 CFR 43.61 and 47 CFR 43.82 and to repeal 47 CFR 43.53.

Timetable:

Action	Date	FR Cite
NPRM	04/12/04	
NPRM Comment Period End	08/23/04	69 FR 29676

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI42

522. REVIEW OF THE SPECTRUM SHARING PLAN AMONG NON–GEOSTATIONARY SATELLITE ORBIT MOBILE SATELLITE SERVICE SYSTEMS IN THE 1.6/2.4 GHZ BANDS (IB DOCKET NO. 02–364)

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 302(a); 47 USC 303(e); . . .

Abstract: This docket involves the spectrum sharing plan for the low earth orbit satellite systems in the 1.6 GHz and 2.4 GHz bands (Big LEOs). In November 2007, the Commission resolved the 1.6 GHz spectrum sharing plan between Globalstar Inc. and Iridium Satellite LLC, whereby Globalstar will have exclusive MSS use of 7.775 megahertz of spectrum at 1610-1617.775 MHz, Iridium will have exclusive MSS use of 7.775 megahertz of spectrum at 1618.725-1626.5 MHz, and the two Big LEO operators will share 0.95 megahertz of spectrum at 1617.775-1618.725 MHz. Separately, in April 2006, the Commission affirmed the spectrum sharing plan between Globalstar and the fixed and mobile (except aeronautical mobile) services in the 2495-2500 MHz band in order to accommodate the relocation of Broadband Radio Service Channel 1 to the 2496-2502 MHz band. (Iridium does not operate in the 2.4 GHz band.)

Timetable:

Action	Date	FR Cite
NPRM	01/29/03	68 FR 33666
R&O	08/09/04	69 FR 48157
FNPRM	08/09/04	69 FR 48192
Petitions for Recon	10/12/04	69 FR 60626
First Order on Recon	06/19/06	71 FR 35178
Petitions for Further Recon	07/27/06	71 FR 44029
Second Order on Recon and Second R&O	12/13/07	72 FR 70807

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI44

523. AMENDMENT OF THE COMMISSION'S RULES TO ALLOCATE SPECTRUM AND ADOPT SERVICE RULES AND PROCEDURES TO GOVERN THE USE OF VEHICLE–MOUNTED EARTH STATIONS (IB DOCKET NO. 07–101)

Legal Authority: 47 USC 151; 47 USC 154(i) and (j); 47 USC 157(a); 47 USC 301; 47 USC 303 (c); 47 USC 303 (f); 47 USC 303 (g); 47 USC 303 (r); 47 USC 303 (y); 47 USC 308

Abstract: The Commission seeks comment on the proposed amendment of parts 2 and 25 of the Commission's rules to allocate spectrum for use with Vehicle-Mounted Earth Stations (VMES) in the Fixed-Satellite Service in the Ku-band uplink at 14.0-14.5 GHz and Ku-band downlink 11.72-12.2 GHz on a primary basis, and in the extended Ku-band downlink at 10.95-11.2 GHz and 11.45-11.7 GHz on a non-protected basis, and to adopt Ku-band VMES licensing and service rules modeled on the FCC's rules for Ku-band Earth Stations on Vessels (ESVs). The record in this proceeding will provide a basis for Commission action to facilitate introduction of this proposed service.

Timetable:

Action	Date	FR Cite
NPRM	07/08/07	72 FR 39357
NPRM Comment Period End	09/04/07	
R&O	11/04/09	74 FR 57092

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI90

Federal Communications Commission (FCC)

Media Bureau

Long-Term Actions

524. CABLE TELEVISION RATE REGULATION

Legal Authority: 47 USC 154; 47 USC 543

Abstract: The Commission has adopted rate regulations to implement section 623 of the 1992 Cable Act to ensure that cable subscribers nationwide enjoy the rates that would be charged by cable systems operating in a competitive environment. Reconsideration was requested. The Fourteenth Order on Reconsideration addresses petitions on issues governing regulated services by cable systems. In a subsequent notice, comment was sought on recalibrating the competitive differential between rates of systems subject to effective competition and noncompetitive systems. In addition, comment was sought as to whether there may be a different approach to establish reasonable rates on the basic service tier.

Timetable:

Action	Date	FR Cite
NPRM	01/04/93	58 FR 48
R&O and FNPRM	05/21/93	58 FR 29736
MO&O and FNPRM	08/18/93	58 FR 43816
Third R&O	11/30/93	58 FR 63087
Order on Recon, Fourth R&O, and Fifth NPRM	04/15/94	59 FR 17943
Third Order on Recon	04/15/94	59 FR 17961
Fifth Order on Recon and FNPRM	10/13/94	59 FR 51869
Fourth Order on Recon	10/21/94	59 FR 53113
Sixth Order on Recon, Fifth R&O, and Seventh NPRM	12/06/94	59 FR 62614
Seventh Order on Recon	01/25/95	60 FR 4863
Ninth Order on Recon	02/27/95	60 FR 10512
Eighth Order on Recon	03/17/95	60 FR 14373
Sixth R&O and Eleventh Order on Recon	07/12/95	60 FR 35854
Thirteenth Order on Recon	10/05/95	60 FR 52106
Twelfth Order on Recon	10/26/95	60 FR 54815
Tenth Order on Recon	04/08/96	61 FR 15388
Order on Recon of the First R&O and FNPRM	04/15/96	61 FR 16447
MO&O	02/12/97	62 FR 6491
Report on Cable Industry Prices	02/24/97	62 FR 8245
R&O	03/31/97	62 FR 15118
Fourteenth Order on Recon	10/15/97	62 FR 53572
NPRM and Order	09/05/02	67 FR 56882

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AF41

525. CABLE TELEVISION RATE REGULATION: COST OF SERVICE

Legal Authority: 47 USC 154; 47 USC 543

Abstract: The Commission has established rules pursuant to which cable operators may set rates for regulated cable service in accordance with traditional cost-of-service principles, as modified to take account of unique characteristics of the cable industry. In the latest NPRM, comment was sought on rule changes that may be necessary or desirable in order to account for changes in the regulatory process resulting from the end of the Commission's statutory authority to regulate certain tiers of cable programming service.

Timetable:

Action	Date	FR Cite
NPRM	07/30/93	58 FR 40762
R&O	04/15/94	59 FR 17975
Second NPRM	04/15/94	59 FR 18066
MO&O	10/14/94	59 FR 52087
Second R&O/First Order on Recon/FNPRM	03/08/96	61 FR 9361
Correction	03/22/96	61 FR 11749
NPRM and Order	09/05/02	67 FR 56882

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AF48

526. CABLE HOME WIRING

Legal Authority: 47 USC 544(i)

Abstract: On October 6, 1997, the FCC adopted a Report and Order and Second Notice of Proposed Rulemaking (FCC 97-376) that amends its cable inside wiring rules to enhance competition in the video distribution marketplace. The Second FNPRM seeks comment on, among other things, whether there are circumstances where the FCC should adopt restrictions on exclusive contracts in order to further promote competition in the multiple dwelling unit marketplace. The 2nd Report and Order addresses multiple dwelling units when the occupant charges video service providers. In the First Order on Reconsideration and the Second Report and Order, the Commission modified its rules in part. The United States Court of Appeals for the District of Columbia Circuit remanded a portion of the Commission decision back to the Commission for further consideration. In September 2004, the Commission issued an FNPRM in response to the courts decision. The subsequent Report and Order and Declaratory Ruling concluded that cable wiring behind sheet rock is physically inaccessible for determining the demarcation point.

Timetable:

Action	Date	FR Cite
NPRM	11/17/92	57 FR 54209
R&O	03/02/93	58 FR 11970
NPRM	02/01/96	61 FR 3657
First Order on Recon & FNPRM	02/16/96	61 FR 6210
FNPRM	09/03/97	62 FR 46453
R&O and Second FNPRM	11/14/97	62 FR 60165
First Order on Recon and Second R&O	03/21/03	68 FR 13850
FNPRM	10/15/04	69 FR 61193
R&O and Declaratory Ruling	08/30/07	72 FR 50074

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AG02

527. COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES (CS DOCKET NO. 97–80)

Legal Authority: 47 USC 549

Abstract: The Commission has adopted rules to address the mandate expressed in section 629 of the Communications Act to ensure the commercial availability of ''navigation devices,'' the equipment used to access video programming and other services from multichannel video programming systems.

Specifically, in 1998, the Commission required MVPDs to make available by, a security element (known as a ''cablecard'') separate from the basic navigation device (e.g., cable set-top boxes, digital video recorders, and television receivers with navigation capabilities). The separation of the security element from the host device required by this rule (referred to as the ''integration ban'') was designed to enable unaffiliated manufacturers, retailers, and other vendors to commercially market host devices while allowing MVPDs to retain control over their system security. Also, in this proceeding, the Commission adopted unidirectional ''plug and play'' rules, to govern compatibility between MVPDs and navigation devices manufactured by consumer electronics manufacturers not affiliated with cable operators.

In the most recent FNPRM, the Commission proposed new rules to improve the operation of the CableCard regime.

Timetable:

Action	Date	FR Cite
NPRM	03/05/97	62 FR 10011
R&O	07/15/98	63 FR 38089
Order on Recon	06/02/99	64 FR 29599
FNPRM & Declaratory Ruling	09/28/00	65 FR 58255
FNPRM	01/16/03	68 FR 2278
Order and FNPRM	06/17/03	68 FR 35818
Second R&O	11/28/03	68 FR 66728
FNPRM	11/28/03	68 FR 66776
Order on Recon	01/28/04	69 FR 4081
Second R&O	06/22/05	70 FR 36040
Third FNPRM	07/25/07	72 FR 40818
4th FNPRM	05/14/10	75 FR 27256

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AG28

528. CABLE HORIZONTAL AND VERTICAL OWNERSHIP LIMITS (MM DOCKET NO. 92–264)

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 303; 47 USC 533

Abstract: Section 613 of the Communications Act requires the Commission to ''prescribe rules and regulations establishing reasonable limits on the number of cable subscribers a person is authorized to reach through cable systems owned by such person, or in which such person has an attributable interest.'' On October 8, 1999, the Commission issued a Third Report and Order, FCC 99-289, in this matter. The Commission revised the horizontal ownership rules as follows: (1) All multichannel video subscribers will be counted when calculating the 30 percent ownership limit; (2) actual subscriber numbers, rather than potential subscriber numbers, will be used for calculating an owner's share; and (3) the minority exception which allowed a 35 percent ownership limit for minority-owned entities under certain circumstances was eliminated. On March 2, 2001, the District of Columbia Circuit Court reversed and remanded the cable horizontal and vertical limits, as well as two aspects of the attribution rules used to determine compliance with these limits. (Time Warner Entertainment Co. v. FCC, 240 F.3d 1126 (DC cir. 2001)). Pursuant to the court's remand, the Commission solicited comment in a Further Notice of Proposed Rulemaking (September 2001) and a Second Further Notice of Proposed Rulemaking.

In the Fourth Report and Order, the Commission set the cable horizontal ownership limit at 30 percent. In the accompanying Further Notice of Proposed Rulemaking, comment was sought on issues regarding the cable attribution rules and appropriate channel occupancy limits.

Timetable:

Action	Date	FR Cite
Second MO&O on Recon and FNPRM	07/14/98	63 FR 37790
Third R&O	12/01/99	64 FR 67198
Order on Recon	03/08/00	65 FR 12135
MO&O	06/08/00	65 FR 36382
FNPRM	10/11/01	66 FR 51905
Second FNPRM	06/18/05	70 FR 33680
Fourth R&O and FNPRM	02/29/08	73 FR 11048

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH09

529. DIGITAL AUDIO BROADCASTING SYSTEMS (MM DOCKET NO. 99–325)

Legal Authority: 47 USC 154; 47 USC 303

Abstract: The rulemaking proceeding was initiated to foster the development and implementation of terrestrial digital audio broadcasting (DAB). The transition to DAB promises the benefits that have generally accompanied digitalization—better audio fidelity, more robust transmission systems, and the possibility of new auxiliary services. In the First Report and Order, the Commission selected in-band, on-channel as the technology that will permit AM and FM radio broadcasters to introduce digital operations. Consideration of formal standard-setting procedures and related broadcasting licensing and service rule changes are addressed in a Further Notice of Proposed Rulemaking. Further technical guidance is provided in a Second Report and Order.

Timetable:

Action	Date	FR Cite
NPRM	11/09/99	64 FR 61054
First R&O	12/23/02	67 FR 78193
FNPRM and NOI	05/14/04	69 FR 27815
Second R&O	08/15/07	72 FR 45712

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH40

530. SECOND PERIODIC REVIEW OF RULES AND POLICIES AFFECTING THE CONVERSION TO DTV

Legal Authority: 47 USC 4(i) and 4(j); 47 USC 303(r); 47 USC 307; 47 USC 309; 47 USC 336

Abstract: On January 18, 2001, the Commission adopted a Report and Order (R&O) and Further Notice of Proposed Rulemaking, addressing a number of issues related to the conversion of the nation's broadcast television system from analog to digital television. The Second Report and Order resolved several major technical issues including the issue of receiver performance standards, DTV tuners, and revisions to certain components of the DTV transmission standard. A subsequent NPRM commenced the Commission's second periodic review of the progress of the digital television conversion. The resulting R&O adopted a multi-step process to create a new DTV table of allotments and authorizations. Also in the R&O, the Commission adopted replication and maximization deadlines for DTV broadcasters and updated rules in recognition revisions to broadcast transmission standards.

The Second R&O adopts disclosure requirements for televisions that do not include a digital tuner.

Timetable:

Action	Date	FR Cite
NPRM	03/23/00	65 FR 15600
R&O	02/13/01	66 FR 9973
MO&O	12/18/01	66 FR 65122
Third MO&O and Order on Recon	10/02/02	67 FR 61816
Second R&O and Second MO&O	10/11/02	67 FR 63290
NPRM	02/18/03	68 FR 7737
R&O	10/04/04	69 FR 59500
Second R&O	05/10/07	72 FR 26554
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH54

531. DIRECT BROADCAST PUBLIC INTEREST OBLIGATIONS (MM DOCKET NO. 93–25)

Legal Authority: 47 USC 335

Abstract: The Commission adopted rules in 1998 that implement section 25 of the Cable Television Consumer Protection and Competition Act of 1992, as codified at section 335 of the Communications Act of 1934. Section 335 directs the Commission to impose certain public interest obligations on direct broadcast satellite providers.

Timetable:

Action	Date	FR Cite
NPRM	03/08/93	58 FR 12917
R&O	02/08/99	64 FR 52399
Order on Recon	04/22/04	69 FR 21761
Order on Recon	04/28/04	69 FR 23155
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH59

532. REVISION OF EEO RULES AND POLICIES (MM DOCKET NO. 98–204)

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 257; 47 USC 301; 47 USC 303; 47 USC 307 to 309; 47 USC 334; 47 USC 403; 47 USC 554

Abstract: FCC authority to govern Equal Employment Opportunity (EEO) responsibilities of cable television operators was codified in the Cable Communications Policy Act of 1984. This authority was extended to television broadcast licensees and other multi-channel video programming distributors in the Cable and Television Consumer Protection Act of 1992. In the Second Report and Order, the FCC adopted new EEO rules and policies. This action was in response to a decision of the U.S. Court of Appeals for the District of Columbia Circuit that found prior EEO rules unconstitutional. The Third Notice of Proposed Rulemaking (NPRM) requests comment as to the applicability of the EEO rules to part-time employees. The Third Report and Order adopted revised forms for broadcast station and MVPDs Annual Employment Report. In the Fourth NPRM, comment was sought regarding public access to the data contained in the forms.

Timetable:

Action	Date	FR Cite
NPRM	01/14/02	67 FR 1704
Second R&O and Third NPRM	01/07/03	68 FR 670
Correction	01/13/03	68 FR 1657
Fourth NPRM	06/23/04	69 FR 34986
Third R&O	06/23/04	69 FR 34950
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH95

533. BROADCAST MULTIPLE AND CROSS–OWNERSHIP LIMITS

Legal Authority: 47 USC 151; 47 USC 152(a); 47 USC 154(i); 47 USC 303; 47 USC 307; 47 USC 309 and 310

Abstract: In 2002, the Commission undertook a comprehensive review of its broadcast multiple and cross-ownership limits examining: cross-ownership of TV and radio stations; local TV ownership limits; national TV cap; and dual network rule.

The Report and Order replaced the newspaper/broadcast cross-ownership and radio and TV rules with a tiered approach based on the number of television stations in a market. Petitions for Reconsideration are pending. Also, the Third Circuit Court of Appeals remanded portions of the Commission's decisions. In June 2006, the Commission adopted a Further Notice of Proposed Rulemaking initiating the 2006 review of the broadcast ownership rules. The further notice also sought comment on how to address the issues raised by the Third Circuit. Additional questions are raised for comment in a Second Further Notice of Proposed Rulemaking.

In the Report and Order and Order on Reconsideration, the Commission adopted rule changes regarding newspaper/broadcast cross-ownership, but otherwise generally retained the other broadcast ownership rules currently in effect. An appeal of this action is before the Third Circuit.

Timetable:

Action	Date	FR Cite
NPRM	10/05/01	66 FR 50991
R&O	08/05/03	68 FR 46286
Public Notice	02/19/04	69 FR 9216
FNPRM	08/09/06	71 FR 4511
Second FNPRM	08/08/07	72 FR 44539
R&O and Order on Recon	02/21/08	73 FR 9481

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH97

534. ESTABLISHMENT OF RULES FOR DIGITAL LOW POWER TELEVISION, TELEVISION TRANSLATOR, AND TELEVISION BOOSTER STATIONS (MB DOCKET NO. 03–185)

Legal Authority: 47 USC 309; 47 USC 336

Abstract: This proceeding initiates the digital television conversion for low power television (LPTV) and television translator stations. The rules and policies adopted as a result of this proceeding provide the framework for these stations' conversion from analog to digital broadcasting. The Report and Order adopts definitions and permissible use provisions for digital TV translator and LPTV stations. Petitions for reconsideration of the Report and Order are pending.

Timetable:

Action	Date	FR Cite
NPRM	09/26/03	68 FR 55566
NPRM Comment Period End	11/25/03	
R&O	11/29/04	69 FR 69325

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI38

535. JOINT SALES AGREEMENTS IN LOCAL TELEVISION MARKETS (MB DOCKET NO. 04–256)

Legal Authority: 47 USC 151 to 152(a); 47 USC 154(i); 47 USC 303; . . .

Abstract: A joint sales agreement (JSA) is an agreement with a licensee of a brokered station that authorizes a broker to sell some or all of the advertising time for the brokered station in return for a fee or percentage of revenues paid to the licensee. The Commission has sought comment on whether TV JSAs should be attributed for purposes of determining compliance with the Commission's multiple ownership rules.

Timetable:

Action	Date	FR Cite
NPRM	08/26/04	69 FR 52464
NPRM Comment Period End	09/27/04	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI55

536. REVISION OF PROCEDURES GOVERNING AMENDMENTS TO FM TABLE OF ALLOTMENTS AND CHANGES OF COMMUNITY OF LICENSE IN THE RADIO BROADCAST SERVICES (MB DOCKET NO. 05–210)

Legal Authority: 47 USC 154; 47 USC 303

Abstract: The rulemaking was initiated to reduce backlog in, and streamline, the FM allotment procedures and, to a lesser extent, streamline certain procedures pertaining to AM applications. Although the Commission has made important changes to streamline the processing of radio broadcast applications, the basic procedures for amending the Table have not changed since 1982. The Notice seeks comment on a number of specific rule and procedural changes in the handling of FM and AM applications and rulemaking petitions to amend the Table. In the area of applications procedures, the Notice seeks comments on various proposals designed to encourage only bona fide proponents to submit petitions and to limit the complexity of such petitions. If these changes are adopted, it will expedite the approval and implementation on new and upgraded radio service to the public. The Report and Order adopted the proposals from the notice. Petitions for reconsideration are pending.

Timetable:

Action	Date	FR Cite
NPRM	06/22/05	70 FR 44537
NPRM Comment Period End	10/03/05	
R&O	12/20/06	71 FR 76208

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI63

537. DIGITAL TELEVISION DISTRIBUTED TRANSMISSION SYSTEM TECHNOLOGIES (MB DOCKET NO. 05–312)

Legal Authority: 47 USC 151; 47 USC 154(i) to (j); 47 USC 157; 47 USC 301; . . .

Abstract: A digital television transmission system (DTS) employs multiple synchronized transmitters spread around a station's service area. Such distributed transmitters fill in unserved areas in the parent station's coverage area. The Notice of Proposed Rulemaking (NPRM) examines issues related to the use of DTS and proposes rules for future DTS operation. The Report and Order adopts the technical and licensing rules necessary to implement DTS service.

Timetable:

Action	Date	FR Cite
NPRM	12/07/05	70 FR 72763
NPRM Comment Period End	02/06/06	
R&O	12/05/08	73 FR 74047

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI68

538. IMPLEMENTATION OF THE CABLE COMMUNICATIONS POLICY ACT OF 1984 AS AMENDED BY THE CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992 (MB DOCKET NO. 05–311)

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 541(a)(1); 47 USC 556(c)

Abstract: Section 621(a)(1) of the Communications Act of 1934, as amended, states in relevant part that ''a franchising authority . . .may not unreasonably refuse to award an additional competitive franchise.'' The Notice of Proposed Rulemaking (NPRM) solicits comment on implementation of section 621(a)(1)'s directive, and whether the franchising process unreasonably impedes the achievement of the interrelated Federal goals of enhanced cable competition and accelerated broadband deployment and, if so, how the Commission should act to address that problem.

The subsequent Report and Order found that certain actions by local franchising authorities constitute an unreasonable refusal to award a competitive franchise within the meaning of section 621(a)(1). The item included a Further Notice of Proposed Rulemaking (FNPRM) seeking comment on how the findings should affect existing franchises.

In the Second Report and Order, a number of the rules promulgated in this docket are extended to incumbent cable operators.

Timetable:

Action	Date	FR Cite
NPRM	12/19/05	70 FR 73973
NPRM Comment Period End	02/13/06	
R&O and FNPRM	03/21/07	72 FR 13230
FNPRM Comment Period End	04/20/07	
Second R&O	11/23/07	72 FR 65670
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI69

539. PROGRAM ACCESS RULES—SUNSET OF EXCLUSIVE CONTRACTS PROHIBITION AND EXAMINATION OF PROGRAMMING TYING ARRANGEMENTS (MB DOCKET NOS. 07–29, 07–198)

Legal Authority: 47 USC 548

Abstract: The program access provisions of the Communications Act (section 628) generally prohibit exclusive contracts for satellite delivered programming between programmers in which a cable operator has an attributable interest (vertically integrated programmers) and cable operators. This limitation was set to expire on October 5, 2007, unless circumstances in the video programming marketplace indicate that an extension of the prohibition continues ''to be necessary to preserve and protect competition and diversity in the distribution of video programming.'' The October 2007 Report and Order concluded the prohibition continues to be necessary, and accordingly, retained it until October 5, 2012. The accompanying Notice of Proposed Rulemaking (NPRM) sought comment on revisions to the Commission's program access and retransmission consent rules. The associated Report and Order adopted rules to permit complainants to pursue program access claims regarding terrestrially delivered cable affiliated programming.

Timetable:

Action	Date	FR Cite
NPRM	03/01/07	72 FR 9289
NPRM Comment Period End	04/02/07	
R&O	10/04/07	72 FR 56645
NPRM	10/31/07	72 FR 61590
NPRM Comment Period End	11/30/07	
R&O	03/02/10	75 FR 9692
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI87

540. THIRD PERIODIC REVIEW OF THE COMMISSION'S RULES AND POLICIES AFFECTING THE CONVERSION TO DIGITAL TELEVISION (MB DOCKET NO. 07–91)

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 301 to 303; 47 USC 307 to 309; 47 USC 312; 47 USC 316; 47 USC 318 and 319; 47 USC 324 and 325; 47 USC 336 and 337

Abstract: Congress has mandated that after February 17, 2009, full-power broadcast stations must transmit only in digital signals, and may no longer transmit analog signals. This proceeding is the Commission's third periodic review of the transition of the nation's broadcast television system from analog to digital television (DTV). The Commission conducts these periodic reviews in order to assess the progress of the transition and make any necessary adjustments to the Commission's rules and policies to facilitate the introduction of DTV service and the recovery of spectrum at the end of the transition. In this review, the Commission considers how to ensure that broadcasters complete construction of their final post-transition (digital) facilities by the statutory deadline.

Timetable:

Action	Date	FR Cite
NPRM	07/09/07	72 FR 37310
NPRM Comment Period End	08/08/07	
R&O	01/30/08	73 FR 5634
Order on Clarification	07/10/08	73 FR 39623
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI89

541. BROADCAST LOCALISM (MB DOCKET NO. 04–233)

Legal Authority: 47 USC 154(i); 47 USC 303; 47 USC 532; 47 USC 536

Abstract: The concept of localism has been a cornerstone of broadcast regulation. The Commission has consistently held that as temporary trustee of the public's airwaves, broadcasters are obligated to operate their stations to serve the public interest. Specifically, broadcasters are required to air programming responsive to the needs and issues of the people in their licensed communities. The Commission opened this proceeding to seek input on a number of issues related to broadcast localism.

Timetable:

Action	Date	FR Cite
Report and NPRM	02/13/08	73 FR 8255
NPRM Comment Period End	03/14/08	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ04

542. CREATING A LOW POWER RADIO SERVICE (MM DOCKET NO. 99–25)

Legal Authority: 47 USC 151 to 152; 47 USC 154(i); 47 USC 303; 47 USC 403; 47 USC 405

Abstract: This proceeding was initiated to establish a new noncommercial educational low power FM radio service for non-profit community organizations and public safety entities. In January 2000, the Commission adopted a Report and Order establishing two classes of LPFM stations, 100 watt (LP100) and 10 watt (LP10) facilities, with service radii of approximately 3.5 miles and 1-2 miles, respectively. The Report and Order also established ownership and eligibility rules for the LPFM service. The Commission generally restricted ownership to entities with no attributable interest in any other broadcast station or other media. To choose among entities filing mutually exclusive applications for LPFM licenses, the Commission established a point system favoring local ownership and locally-originated programming. The Report and Order imposed separation requirements for LPFM with respect to full power stations operating on co-, first- and second-adjacent and intermediate frequency (IF) channels. In December 2000, legislation was enacted that required the Commission to modify its rules to (i) prescribe LPFM station third-adjacent channel interference protection standards and (ii) prohibit any applicant from obtaining an LPFM station license if the applicant previously has engaged in the unlicensed operation of a station. In March 2001, the Commission adopted a Second Report and Order implementing this statute.

In a Further Notice issued in 2005, the Commission reexamined some of its rules governing the LPFM service, noting that the rules may need adjustment in order to ensure that the Commission maximizes the value of the LPFM service without harming the interests of full-power FM stations or other Commission licensees. The Commission sought comment on a number of issues with respect to LPFM ownership restrictions and eligibility.

The Third Report and Order resolves issues raised in the Further Notice. The accompanying Second Further Notice of Proposed Rulemaking (FNPRM) considers rule changes to avoid the potential loss of LPFM stations.

Timetable:

Action	Date	FR Cite
NPRM	02/16/99	64 FR 7577
R&O	02/15/00	65 FR 7616
MO&O and Order on Recon	11/09/00	65 FR 67289
Second R&O	05/10/01	66 FR 23861
Second Order on Recon and FNPRM	07/07/05	70 FR 3918
Third R&O and Second FNPRM	01/17/08	73 FR 3202
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ07

543. SPONSORSHIP IDENTIFICATION RULES AND EMBEDDED ADVERTISING (MB DOCKET NO. 08–90)

Legal Authority: 47 USC 154(i) and (j); 47 USC 303(r); 47 USC 303(a); 47 USC 317; 47 USC 405; 47 USC 508

Abstract: The Commission undertook this proceeding to seek comment on the relationship between the Commission's sponsorship identification rules and the increasing reliance on industry by embedded advertising techniques. Due to recent technological changes that allow consumers to more easily bypass traditional commercial content, content providers may be turning to more subtle and sophisticated means of incorporating commercial messages into programming. The NPRM will seek to determine how embedded advertising affects the efficacy of the sponsorship identification rules in protecting the public's right to know who is paying to air commercials or other programming matter on broadcast outlets and cable television systems.

Timetable:

Action	Date	FR Cite
NPRM and NOI	07/24/08	73 FR 43194
NPRM Comment Period End	09/22/08	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ10

544. AN INQUIRY INTO THE COMMISSION'S POLICIES AND RULES REGARDING AM RADIO SERVICE DIRECTIONAL ANTENNA PERFORMANCE VERIFICATION (MM DOCKET NO. 93–177)

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 303; 47 USC 308

Abstract: This proceeding is part of a streamlining initiative to simplify the Media Bureau's licensing procedures. The Report and Order in this proceeding simplified traditional proof of performance requirements for directional AM stations. The Second Report and Order further reduces

regulatory burdens on AM broadcasters by permitting the use of computer modeling.

Timetable:

Action	Date	FR Cite
NPRM	07/27/99	64 FR 40539
NPRM Comment Period End	09/10/99	
R&O	04/25/01	66 FR 20752
FNPRM	04/25/01	66 FR 20779
FNPRM Comment Period End	07/09/01	
Second R&O	10/30/08	73 FR 64558
Second FNPRM	12/11/08	73 FR 75376
Second FNPRM Comment Period End	01/12/09	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ17

545. AMENDMENT OF PARTS 73 AND 74 OF THE COMMISSION'S RULES TO ESTABLISH RULES FOR REPLACEMENT DIGITAL LOW POWER TELEVISION TRANSLATOR STATIONS (MB DOCKET NO. 08–253)

Legal Authority: 47 USC 151; 47 USC 154(i) and (j); 47 USC 157; 47 USC 301; 47 USC 302(a); 47 USC 303; 47 USC 307 to 309; 47 USC 312; 47 USC 316; 47 USC 318 and 319; 47 USC 324 and 325; 47 USC 336 and 337

Abstract: This proceeding was initiated to create a new digital television translator service to permit full-service television stations to continue to provide digital service to viewers within their coverage areas who have lost service as a result of the stations' digital transition.

Timetable:

Action	Date	FR Cite
NPRM	01/02/09	74 FR 61
NPRM Comment Period End	01/12/09	
R&O	06/02/09	74 FR 26300

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ18

546. POLICIES TO PROMOTE RURAL RADIO SERVICE AND TO STREAMLINE ALLOTMENT AND ASSIGNMENT PROCEDURES (MB DOCKET NO. 09–52)

Legal Authority: 47 USC 151 and 152; 47 USC 154(i); 47 USC 303; 47 USC 307 and 309(j)

Abstract: This proceeding was commenced to consider a number of changes to the Commission's rules and procedures to carry out the statutory goal of distributing radio service fairly and equitably, and to increase the transparency and efficiency of radio broadcast auction and licensing processes. In the NPRM, comment is sought on specific proposals regarding the procedures used to award commercial broadcast spectrum in the AM and FM broadcast bands. The accompanying Report and Order adopts rules that provide tribes a priority to obtain broadcast radio licenses in tribal communities. The Commission concurrently adopted a Further Notice of Proposed Rulemaking seeking comment on whether to extend the tribal priority to tribes that do not possess tribal land.

Timetable:

Action	Date	FR Cite
NPRM	05/13/09	74 FR 22498
NPRM Comment Period End	07/10/09	
First R&O	03/04/10	75 FR 9797
FNPRM	03/04/10	75 FR 9856

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ23

547. PROMOTING DIVERSIFICATION OF OWNERSHIP IN THE BROADCAST SERVICES (MB DOCKET NO. 07–294)

Legal Authority: 47 USC 151; 47 USC 152(a); 47 USC 154 i and (j); 47 USC 257; 47 USC 303(r); 47 USC 307 to 310; 47 USC 336; 47 USC 534 to 535

Abstract: Diversity and competition are longstanding and important Commission goals. The measures proposed, as well as those adopted in this proceeding, are intended to promote diversity of ownership of media outlets. In the Report and Order and third FNPRM, measures are enacted to increase participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses. In the Report and Order and fourth FNPRM, the Commission adopts improvements to its data collection in order to obtain an accurate and comprehensive assessment of minority and female broadcast ownership in the United States. The Memorandum Opinion & Order addressed petitions for Reconsideration of the rules, and also sought comment on a proposal to expand the reporting requirements to non attributable interests.

Timetable:

Action	Date	FR Cite
R&O	05/16/08	73 FR 28361
3rd FNPRM	05/16/08	73 FR 28400
R&O	05/27/09	74 FR 25163
4th FNPRM	05/27/09	74 FR 25305
5th NPRM (release date)	10/16/09	
MO&O	10/30/09	74 FR 56131

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ27

548. ● IMPLEMENTATION OF SECTION 203 OF THE SATELLITE TELEVISION EXTENSION AND LOCALISM ACT OF 2010 (STELA) (MB DOCKET NO. 10–148)

Legal Authority: 47 USC 340

Abstract: In this proceeding, the Commission proposes changes to its satellite television ''significantly viewed'' rules to implement Section 203 of the Satellite Television Extension and Localism Act of 2010 (STELA). Section 203 of the STELA

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amends section 340 of the Communications Act, which gives satellite carriers the authority to offer out-of-market but ''significantly viewed'' broadcast television network stations as part of their local service to subscribers.

Timetable:

Action	Date	FR Cite
NPRM	07/28/10	75 FR 44198
NPRM Comment Period End	08/17/10	
Reply Comment Period End	08/27/10	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ43

Federal Communications Commission (FCC) Completed Actions
Media Bureau

549. SIGNIFICANTLY VIEWED OUT–OF–MARKET BROADCAST STATIONS (MB DOCKET NO. 05–49)

Legal Authority: 47 USC 151; 47 USC 154(i) and 154(j); 47 USC 340

Abstract: Section 202 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 creates section 340 of the Communications Act, which provides satellite carries with the authority to offer Commission determined ''significantly viewed'' signals of out-of-market broadcast stations to subscribers. In the NPRM, comment was sought on implementation of section 340. The resulting Report and Order adopted a list of significantly viewed stations and procedures for stations to petition the Commission for inclusion on the list.

Timetable:

Action	Date	FR Cite
NPRM	03/08/05	70 FR 11314
NPRM Comment Period End	04/08/05	
R&O	12/27/05	70 FR 76504

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI56

Federal Communications Commission (FCC) Long-Term Actions
Office of Managing Director

550. ASSESSMENT AND COLLECTION OF REGULATORY FEES

Legal Authority: 47 USC 159

Abstract: Section 9 of the Communications Act of 1934, as amended, 47 U.S.C. 159, requires the FCC to recover the cost of its activities by assessing and collecting annual regulatory fees from beneficiaries of the activities.

Timetable:

Action	Date	FR Cite
NPRM	04/06/06	71 FR 17410
NPRM Comment Period End	02/14/06	
R&O	08/02/06	71 FR 43842
NPRM	05/02/07	72 FR 24213
NPRM Comment Period End	05/03/07	
R&O	08/16/07	72 FR 45908
FNPRM	08/16/07	72 FR 46010
FNPRM Comment Period End	09/17/07	
NPRM	05/28/08	73 FR 30563
NPRM Comment Period End	05/30/08	
R&O	08/26/08	73 FR 50201
FNPRM	08/26/08	73 FR 50285
FNPRM Comment Period End	09/25/08	
2nd R&O	05/12/09	74 FR 22104
NPRM and Order	06/02/09	74 FR 26329
NPRM Comment Period End	06/04/09	
R&O	08/11/09	74 FR 40089
NPRM	04/26/10	75 FR 21536
NPRM Comment Period End	05/04/10	
R&O	07/19/10	75 FR 41932
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI79

Federal Communications Commission (FCC)

Public Safety and Homeland Security Bureau

Long-Term Actions

551. REVISION OF THE RULES TO ENSURE COMPATIBILITY WITH ENHANCED 911 EMERGENCY CALLING SYSTEMS

Legal Authority: 47 USC 134(i); 47 USC 151; 47 USC 201; 47 USC 208; 47 USC 215; 47 USC 303; 47 USC 309

Abstract: In a series of orders in several related proceedings issued since 1996, the Federal Communications Commission has taken action to improve the quality and reliability of 911 emergency services for wireless phone users. Rules have been adopted governing the availability of basic 911 services and the implementation of enhanced 911 (E911) for wireless services.

Timetable:

Action	Date	FR Cite
FNPRM	08/02/96	61 FR 40374
R&O	08/02/96	61 FR 40348
MO&O	01/16/98	63 FR 2631
Second R&O	06/28/99	64 FR 34564
Third R&O	11/04/99	64 FR 60126
Second MO&O	12/29/99	64 FR 72951
Fourth MO&O	10/02/00	65 FR 58657
FNPRM	06/13/01	66 FR 31878
Order	11/02/01	66 FR 55618
R&O	05/23/02	67 FR 36112
Public Notice	07/17/02	67 FR 46909
Order to Stay	07/26/02	
Order on Recon	01/22/03	68 FR 2914
FNPRM	01/23/03	68 FR 3214
Second R&O, Second FNPRM	02/11/04	69 FR 6578
Second R&O	09/07/04	69 FR 54037
NPRM	06/20/07	72 FR 33948
NPRM Comment Period End	08/20/07	
R&O	02/14/08	73 FR 8617
Public Notice	09/25/08	73 FR 55473
Public Notice	11/18/09	74 FR 59539
Comment Period End	12/04/09	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AG34

552. ENHANCED 911 SERVICES FOR WIRELINE

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 201; 47 USC 222; 47 USC 251

Abstract: The rules generally will assist State governments in drafting legislation that will ensure that multi-line telephone systems are compatible with the enhanced 911 network.

Timetable:

Action	Date	FR Cite
NPRM	10/11/94	59 FR 54878
FNPRM	01/23/03	68 FR 3214
Second FNPRM	02/11/04	69 FR 6595
R&O	02/11/04	69 FR 6578
Public Notice	01/13/05	70 FR 2405
Comment Period End	03/29/05	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AG60

553. IN THE MATTER OF THE COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT

Legal Authority: 47 USC 229; 47 USC 1001 to 1008

Abstract: All of the decisions in this proceeding thus far are aimed at implementation of provisions of the Communications Assistance for Law Enforcement Act.

Timetable:

Action	Date	FR Cite
NPRM	10/10/97	62 FR 63302
Order	01/13/98	63 FR 1943
FNPRM	11/16/98	63 FR 63639
R&O	01/29/99	64 FR 51462
Order	03/29/99	64 FR 14834
Second R&O	09/23/99	64 FR 51462
Third R&O	09/24/99	64 FR 51710
Order on Recon	09/28/99	64 FR 52244
Policy Statement	10/12/99	64 FR 55164
Second Order on Recon	05/04/01	66 FR 22446
Order	10/05/01	66 FR 50841
Order on Remand	05/02/02	67 FR 21999
NPRM	09/23/04	69 FR 56976
First R&O	10/13/05	70 FR 59704
Second R&O	07/05/06	71 FR 38091
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AG74

554. DEVELOPMENT OF OPERATIONAL, TECHNICAL, AND SPECTRUM REQUIREMENTS FOR PUBLIC SAFETY COMMUNICATIONS REQUIREMENTS

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 160; 47 USC 201 and 202; 47 USC 303; 47 USC 337(a); 47 USC 403

Abstract: This item takes steps toward developing a flexible regulatory framework to meet vital current and future public safety communications needs.

Timetable:

Action	Date	FR Cite
NPRM	10/09/97	62 FR 60199
Second NPRM	11/07/97	62 FR 60199
First R&O	11/02/98	63 FR 58645
Third NPRM	11/02/98	63 FR 58685
MO&O	11/04/99	64 FR 60123
Second R&O	08/08/00	65 FR 48393
Fourth NPRM	08/25/00	65 FR 51788
Second MO&O	09/05/00	65 FR 53641
Third MO&O	11/07/00	65 FR 66644
Third R&O	11/07/00	65 FR 66644
Fifth NPRM	02/16/01	66 FR 10660
Fourth R&O	02/16/01	66 FR 10632
MO&O	09/27/02	67 FR 61002
NPRM	11/08/02	67 FR 68079
R&O	12/13/02	67 FR 76697
NPRM	04/27/05	70 FR 21726
R&O	04/27/05	70 FR 21671
NPRM	04/07/06	71 FR 17786
NPRM	09/21/06	71 FR 55149
Ninth NPRM	01/10/07	72 FR 1201
Ninth NPRM Comment Period End	02/26/07	
R&O and FNPRM	05/02/07	72 FR 24238
R&O and FNPRM Comment Period End	05/23/07	
Second R&O	08/24/07	72 FR 48814
Second FNPRM	05/21/08	73 FR 29582
Third FNPRM	10/03/08	73 FR 57750
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AG85

555. 1998 BIENNIAL REGULATORY REVIEW—REVIEW OF ACCOUNTS SETTLEMENT IN MARITIME MOBILE AND MARITIME MOBILE–SATELLITE RADIO SERVICES (IB DOCKET NO. 98–96)

Legal Authority: 47 USC 154(i) and 154(j); 47 USC 201 to 205; 47 USC 303(r)

Abstract: The FCC seeks comment regarding Accounts Settlement in the Maritime Mobile and Maritime Mobile Satellite Service (MSS) Radio Services.

Timetable:

Action	Date	FR Cite
NPRM	07/24/98	63 FR 39800
FNPRM	07/28/99	64 FR 40808
R&O	07/28/99	64 FR 40774
Comment Period Extended	09/03/99	64 FR 48337

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH30

556. IMPLEMENTATION OF 911 ACT

Legal Authority: 47 USC 151; 47 USC 154(i) and 154(j); 47 USC 157; 47 USC 160; 47 USC 202; 47 USC 208; 47 USC 210; 47 USC 214; 47 USC 251(e); 47 USC 301; 47 USC 303; 47 USC 308 to 309(j); 47 USC 310

Abstract: This proceeding is separate from the Commission's proceeding on Enhanced 911 Emergency Systems (E911) in that it is intended to implement provisions of the Wireless Communications and Public Safety Act of 1999 through the promotion of public safety by the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. More specifically, a chief goal of the proceeding is to ensure that all emergency calls are routed to the appropriate local emergency authority to provide assistance. The E911 proceeding goes a step further and is aimed at improving the effectiveness and reliability of wireless 911 dispatchers with additional information on wireless 911 calls.

Timetable:

Action	Date	FR Cite
Fourth R&O, Third NPRM, and NPRM	09/18/00	65 FR 5675
Fifth R&O, First R&O, and MO&O	01/14/02	67 FR 1643
Final Rule	01/25/02	67 FR 3621

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH90

557. COMMISSION RULES CONCERNING DISRUPTIONS TO COMMUNICATIONS

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 303(r)

Abstract: The Report and Order extended the Commission's disruption reporting requirements to communications providers who are not wireline carriers. The Commission also streamlined compliance with the reporting requirements through electronic filing with a ''fill in the blank'' template and by simplifying the application of that rule. In addition, the Commission delegated authority to the Chief, Office of Engineering and Technology, to make the revisions to the filing system and template necessary to improve the efficiency of reporting and to reduce, where reasonably possible, the time for providers to prepare, and for the Commission staff to review, the communications disruption reports required to be filed. Such authority was subsequently delegated to the Chief of the Public Safety and Homeland Security Bureau. These actions will allow the Commission to obtain the necessary information regarding service disruptions in an efficient and expeditious manner and to achieve significant concomitant public interest benefits.

The Commission received nine petitions for reconsideration in this proceeding, which are pending.

The Further Notice of Proposed Rulemaking (NPRM) expands the record in the proceeding to focus specifically on the unique communications needs of airports, including wireless and satellite communications. In this regard, the Commission requested comment on the additional types of airport communications (e.g., wireless, satellite) that should be required to file service disruption reports—particularly from a homeland security and defense perspective. These types of airport communications may include, for example, communications that are provided by ARINC as well as commercial communications (e.g., air-to-ground and ground-to-air telephone communications) as well as intra-airline commercial links. The Commission also requested comment on whether the outage-reporting requirements for special facilities should be extended to cover general aviation airports (GA) and, if so, what the applicable threshold criteria should be.

Timetable:

Action	Date	FR Cite
NPRM	03/26/04	69 FR 15761
FNPRM	11/26/04	69 FR 68859
R&O	12/03/04	69 FR 70316
Announcement of Effective Date and Partial Stay	12/30/04	69 FR 78338
Petition for Recon	02/15/05	70 FR 7737
Amendment of Delegated Authority	02/21/08	73 FR 9462
Public Notice	08/02/10	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI22

558. E911 REQUIREMENTS FOR IP–ENABLED SERVICE PROVIDERS

Legal Authority: 47 USC 151; 47 USC 154(i) and 154(j); 47 USC 251(e); 47 USC 303(r)

Abstract: The notice seeks comment on what additional steps the Commission should take to ensure that providers of voice-over Internet protocol services that interconnect with the public switched telephone network provide ubiquitous and reliable enhanced 911 service.

Timetable:

Action	Date	FR Cite
NPRM	06/29/05	70 FR 37307
NPRM Comment Period End	09/12/05	
NPRM	06/20/07	72 FR 33948
NPRM Comment Period End	09/18/07	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI62

559. RECOMMENDATIONS OF THE INDEPENDENT PANEL REVIEWING THE IMPACT OF HURRICANE KATRINA ON COMMUNICATIONS NETWORKS

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 218; 47 USC 303(r)

Abstract: In the Order released June 8, 2007 (EB Docket No. 06-119 and WC Docket No. 06-63), the Commission directed the Public Safety and Homeland Security Bureau to implement several of the recommendations made by the Independent Panel reviewing the impact of Hurricane Katrina on Communications Networks (Independent Panel). The Commission also adopted rules requiring some communications providers to have emergency/backup power and requiring certain communications providers to conduct analyses and submit reports on the redundancy and resiliency of their 911 and E911 networks and/or systems. Finally, the Commission extended limited regulatory relief from Section 272 of the Communications Act of 1934, as amended, previously accorded by the Wireline Competition Bureau.

In an Order on Reconsideration released on October 4, 2007, the Commission considered six petitions for reconsideration and/or clarification of the June 2007 Order that adopted the backup power rule (section 12.2 of the Commission's rules). The Order on Reconsideration granted in part and denied in part the petitions. The Commission modified the backup power rule to address several meritorious issues raised by petitioners. This modification will facilitate carrier compliance and reduce the burden on local exchange carriers and commercial mobile radio service providers, while continuing to further important homeland security and public safety goals.

The wireless industry challenged the backup power rule in the U.S. Court of Appeals for the District of Columbia Circuit and, with some wireline providers, challenged the associated information collection before OMB. In February 2008, the Court issued a stay of the rule pending appeal, and, on July 8, 2008, the Court issued an order holding its decision on the challenge to the backup power rule in abeyance pending action by OMB on the information collection associated with the revised rule. In November 2008, OMB rejected the information collection.

As a result of the actions by the Court and OMB, the backup power rule has never gone into effect. In December 2008, the FCC's Office of General Counsel requested that the Court dismiss the pending appeals of the backup power rule and informed the Court that the Commission plans to issue an NPRM to develop a revised rule. On July 31, 2009, the Court dismissed the petitions for review as moot and ordered that the backup power rule by vacated and this mandate was issued until September 18, 2009.

Timetable:

Action	Date	FR Cite
NPRM	07/07/06	71 FR 38564
NPRM Comment Period End	08/07/06	
Order	07/11/07	72 FR 37655
Delay of Effective Date of Rule	08/10/07	72 FR 44978
Petitions for Recon	08/20/07	72 FR 46485
Order on Recon	10/11/07	72 FR 57879

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI78

560. STOLEN VEHICLE RECOVERY SYSTEM (SVRS)

Legal Authority: 47 USC 151 and 152; 47 USC 154(i); 47 USC 301 to 303

Abstract: The Report and Order amends 47 CFR 90.20(e)(6) governing stolen vehicle recovery system operations at 173.075 MHz, by increasing the radiated power limit for narrowband base stations; increasing the power output limit for narrowband base stations; increasing the power output limit for narrowband mobile transceivers; modifying the base station duty cycle; increasing the tracking duty cycle for mobile transceivers; and retaining the requirement for TV channel 7 interference studies and that such studies must be served on TV channel 7 stations.

Timetable:

Action	Date	FR Cite
NPRM	08/23/06	71 FR 49401
NPRM Comment Period End	10/10/06	
R&O	10/14/08	73 FR 60631

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ01

FCC—Public Safety and Homeland Security Bureau — Long-Term Actions

561. COMMERCIAL MOBILE ALERT SYSTEM

Legal Authority: PL 109–347 title VI; EO 13407; 47 USC 151; 47 USC 154(i)

Abstract: In the Notice of Proposed Rulemaking (NPRM), the Commission initiated a comprehensive rulemaking to establish a commercial mobile alert system under which commercial mobile service providers may elect to transmit emergency alerts to the public. The Commission has issued three orders adopting CMAS rules as required by statute. Issues raised in an FNPRM regarding testing requirements for non-commercial educational and public broadcast television stations remain outstanding.

Timetable:

Action	Date	FR Cite
NPRM	01/03/08	73 FR 545
NPRM Comment Period End	02/04/08	
First R&O	07/24/08	73 FR 43009
Second R&O	08/14/08	73 FR 47550
FNPRM	08/14/08	73 FR 47568
FNPRM Comment Period End	09/15/08	
Third R&O	09/22/08	73 FR 54511

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ03

562. EMERGENCY ALERT SYSTEM

Legal Authority: 47 USC 151; 47 USC 152; 47 USC 154(i); 47 USC 154(o); 47 USC 301; 47 USC 393(r); 47 USC 303(v); 47 USC 307; 47 USC 309; 47 USC 335; 47 USC 403; 47 USC 544(g); 47 USC 606; 47 USC 615

Abstract: This revision of 47 CFR part 11 provides for national-level testing of the Emergency Alert System.

Timetable:

Action	Date	FR Cite
NPRM	01/12/10	75 FR 4760
NPRM Comment Period End	03/30/10	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ33

Federal Communications Commission (FCC) — Long-Term Actions
Wireless Telecommunications Bureau

563. IMPLEMENTATION OF THE COMMUNICATIONS ACT, AMENDMENT OF THE COMMISSION'S RULES—BROADBAND PCS COMPETITIVE BIDDING AND THE COMMERCIAL MOBILE RADIO SERVICE SPECTRUM CAP

Legal Authority: 47 USC 154(i); 47 USC 301 and 302; 47 USC 303(r); 47 USC 309(j); 47 USC 332

Abstract: NPRM to modify the competitive bidding rules for the Broadband PCS F Block. Report and Order, adopted June 21, 1996, modified the PCS/cellular rule and the cellular spectrum cap.

Timetable:

Action	Date	FR Cite
O on Recon of Fifth MO&O and D, E, & F R&O	11/15/00	65 FR 68927
Final Rule	03/02/01	66 FR 13022
Final Rule	06/04/01	66 FR 29911
Third NPRM	08/27/04	69 FR 52632
Third NPRM Comment Period Extended	10/04/04	69 FR 59166

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AG21

564. SERVICE RULES FOR THE 746 TO 764 AND 776 TO 794 MHZ BANDS, AND REVISIONS TO THE COMMISSION'S RULES

Legal Authority: 47 USC 1; 47 USC 4(i); 47 USC 7; 47 USC 10; 47 USC 201 and 202; 47 USC 208; 47 USC 214; 47 USC 301; 47 USC 303; 47 USC 307 and 308; 47 USC 309(j) and 309(k); 47 USC 310 and 311; 47 USC 315; 47 USC 317; 47 USC 324; 47 USC 331 and 332; 47 USC 336

Abstract: The Report and Order in this proceeding adopts service rules for licensing and auction of commercial services in spectrum in the 700 MHz band to be vacated by UHF television licensees.

Timetable:

Action	Date	FR Cite
NPRM	07/07/99	64 FR 36686
R&O	01/20/00	65 FR 3139
Second R&O	04/04/00	65 FR 17594
MO&O and FNPRM	07/12/00	65 FR 42879
Second MO&O	02/06/01	66 FR 9035
Third R&O	02/14/01	66 FR 10204
Second MO&O	02/15/01	66 FR 10374
Order on Recon of Third R&O	10/10/01	66 FR 51594
Third MO&O and Order	07/30/02	67 FR 49244
Second FNPRM	05/21/08	73 FR 29582

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH32

565. AMENDMENT OF PARTS 13 AND 80 OF THE COMMISSION'S RULES GOVERNING MARITIME COMMUNICATIONS

Legal Authority: 47 USC 302 to 303

Abstract: This matter concerns the amendment of the rules governing

maritime communications in order to consolidate, revise and streamline the regulations as well as address new international requirements and improve the operational ability of all users of marine radios.

Timetable:

Action	Date	FR Cite
NPRM	03/24/00	65 FR 21694
NPRM	08/17/00	65 FR 50173
NPRM	05/17/02	67 FR 35086
Report & Order	08/07/03	68 FR 46957
Second R&O, Sixth R&O, Second FNPRM	04/06/04	69 FR 18007
Comments Due	06/07/04	
Reply Comments Due	07/06/04	
Second R&O and Sixth R&O	11/08/04	69 FR 64664
NPRM	11/08/06	71 FR 65447
Final Action	01/25/08	73 FR 4475
Petition for Reconsideration	03/18/08	73 FR 14486
4th R&O [release date]	06/10/10	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH55

566. COMPETITIVE BIDDING PROCEDURES

Legal Authority: 47 USC 154; 47 USC 301 to 303; 47 USC 309; 47 USC 332

Abstract: This proceeding proposes resumption of installment payments for broadband Personal Communications Services (PCS), for example, for C and F Block, with payment deadline to be reinstated as of March 31, 1998. The proposal contemplates, inter alia, changes to the FCC's C Block rules to govern re-auction of surrendered spectrum in the C Block. The proposal was released on October 16, 1997, and published in the Federal Register.

Timetable:

Action	Date	FR Cite
Second R&O	10/24/97	62 FR 55348
FNPRM	10/24/97	62 FR 55375
Order on Recon of Second R&O	04/08/98	63 FR 17111
Fourth R&O	09/23/98	63 FR 50791
Second Order on Recon of Second R&O	05/18/99	64 FR 26887
Recon of Fourth R&O	03/16/00	65 FR 14213
FNPRM	06/13/00	65 FR 37092
Sixth R&O and Order on Recon	09/05/00	65 FR 53620
Order on Recon	02/12/01	66 FR 9773
Final Rule	07/21/03	68 FR 42984
Final Rule	09/30/05	70 FR 57183
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH57

567. 2000 BIENNIAL REGULATORY REVIEW SPECTRUM AGGREGATION LIMITS FOR COMMERCIAL MOBILE RADIO SERVICES

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 161; 47 USC 303(g); 47 USC 303(r)

Abstract: The Commission has adopted a final rule in a proceeding reexamining the need for Commercial Mobile Radio Services spectrum aggregation limits.

Timetable:

Action	Date	FR Cite
NPRM	02/12/01	66 FR 9798
NPRM Comment Period End	05/14/01	
Final Rule	01/14/02	67 FR 1626
Correction to Final Rule	01/31/02	67 FR 4675
Petition for Recon	03/21/02	67 FR 13183
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH81

568. IN THE MATTER OF PROMOTING EFFICIENT USE OF SPECTRUM THROUGH ELIMINATION OF BARRIERS TO THE DEVELOPMENT OF SECONDARY MARKETS

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 157; 47 USC 160; 47 USC 201 and 202; 47 USC 208; 47 USC 214; 47 USC 301; 47 USC 303; 47 USC 308 to 310

Abstract: The Commission has opened a proceeding to examine actions it may take to remove unnecessary regulatory barriers to the development of more robust secondary markets in radio spectrum usage rights.

Timetable:

Action	Date	FR Cite
NPRM	12/26/00	65 FR 81475
Correction	01/29/01	66 FR 8149
NPRM Comment Period End	02/09/01	
NPRM	11/25/03	68 FR 66232
Final Rule	11/25/03	68 FR 66252
NPRM Comment Period End	01/05/04	
Final Rule	02/12/04	69 FR 6920
Final Rule	02/25/04	69 FR 8569
Final Rule	11/15/04	69 FR 65544
Final Rule	12/27/04	69 FR 77522
NPRM	12/27/04	69 FR 77560
Final Rule	08/01/07	72 FR 41935
Final Rule	01/26/09	74 FR 4344
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH82

569. REEXAMINATION OF ROAMING OBLIGATIONS OF COMMERCIAL MOBILE RADIO SERVICE PROVIDERS

Legal Authority: 47 USC 151; 47 USC 152(n); 47 USC 154(i) and 154(j); 47 USC 201(b); 47 USC 251(a); 47 USC 253; 47 USC 303(r); 47 USC 332(c)(1)(B); 47 USC 309

Abstract: This rulemaking considers whether the Commission should adopt an automatic roaming rule for voice services for Commercial Mobile Radio Services and whether the Commission should adopt a roaming rule for mobile data services.

Timetable:

Action	Date	FR Cite
NPRM	11/21/00	65 FR 69891
NPRM	09/28/05	70 FR 56612
NPRM	01/19/06	71 FR 3029
FNPRM	08/30/07	72 FR 50085
Final Rule	08/30/07	72 FR 50064
Final Rule	04/28/10	75 FR 22263
FNPRM	04/28/10	75 FR 22338
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH83

570. FACILITATING THE PROVISION OF SPECTRUM–BASED SERVICES TO RURAL AREAS

Legal Authority: Not Yet Determined

Abstract: This rulemaking will facilitate the provision of spectrum-based services to rural areas.

Timetable:

Action	Date	FR Cite
NPRM	11/12/03	68 FR 64050
NPRM Comment Period End	01/26/04	
NPRM	12/15/04	69 FR 75174
NPRM Comment Period End	01/14/05	
Final Rule	12/15/04	69 FR 75144
Final Rule	04/27/05	70 FR 21652
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI31

571. IMPROVING PUBLIC SAFETY COMMUNICATIONS IN THE 800 MHZ BAND INDUSTRIAL/LAND TRANSPORTATION AND BUSINESS CHANNELS

Legal Authority: 47 USC 154(i); 47 USC 303(f); 47 USC 303(r); 47 USC 332

Abstract: The Commission seeks to improve public safety communications in the 800 MHz band and consolidate the 800 MHz Industrial/Land Transportation and Business Pool channels.

Timetable:

Action	Date	FR Cite
NPRM	04/05/02	67 FR 16351
NPRM Comment Period End	05/06/02	
Final Rule	08/19/02	67 FR 53754
Proposed Rule	02/10/03	68 FR 6687
Final Rule	11/22/04	69 FR 67823
Final Rule	11/22/04	69 FR 67853
Final Rule	02/08/05	70 FR 6750
Final Rule	02/08/05	70 FR 6761
Final Rule	04/06/05	70 FR 17327
Notice	06/15/05	70 FR 34764
Final Rule	09/28/05	70 FR 56583
Notice	10/26/05	70 FR 61823
Final Rule	12/28/05	70 FR 76704
Proposed Rule	09/21/06	71 FR 55149
Clarification	06/20/07	72 FR 33914
Final Rule	07/20/07	72 FR 39756
Final Rule; Correction	09/28/07	72 FR 54847
Notice	09/28/07	72 FR 55208
Final Rule; Clarification	10/05/07	72 FR 56923
Petition for Recon	10/01/07	72 FR 557722
Proposed Rule	11/13/07	72 FR 63869
Petition for Recon	11/14/07	72 FR 65734
Proposed Rule	03/31/08	73 FR 16822
Final Rule	06/13/08	73 FR 33728
Proposed Rule	07/13/08	73 FR 40274
Petition for Recon	07/28/08	73 FR 4375
Final Rule	11/17/08	73 FR 67794
Final Rule	02/06/09	74 FR 6235
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI34

572. REVIEW OF PART 87 OF THE COMMISSION'S RULES CONCERNING AVIATION (WT DOCKET NO. 01–289)

Legal Authority: 47 USC 154; 47 USC 303; 47 USC 307(e)

Abstract: This proceeding is intended to streamline, consolidate and revise our part 87 rules governing the Aviation Radio Service. The rule changes are designed to ensure these rules reflect current technological advances.

Timetable:

Action	Date	FR Cite
NPRM	10/16/01	66 FR 64785
NPRM Comment Period End	03/14/02	
R&O and FNPRM	10/16/03	
FNPRM	04/12/04	69 FR 19140
FNPRM Comment Period End	07/12/04	
R&O	06/14/04	69 FR 32577
NPRM	12/06/06	71 FR 70710
NPRM Comment Period End	03/06/07	
Final Rule	12/06/06	71 FR 70671
3rd R&O [Release Date]	06/15/10	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI35

573. IMPLEMENTATION OF THE COMMERCIAL SPECTRUM ENHANCEMENT ACT (CSEA) AND MODERNIZATION OF THE COMMISSION'S COMPETITIVE BIDDING RULES AND PROCEDURES (WT DOCKET NO. 05–211)

Legal Authority: 15 USC 79; 47 USC 151; 47 USC 154(i) and (j); 47 USC 155; 47 USC 155(c); 47 USC 157; 47 USC 225; 47 USC 303(r); 47 USC 307; 47 USC 309; 47 USC 309(j); 47 USC 325(e); 47 USC 334; 47 USC 336; 47 USC 339; 47 USC 554

Abstract: This proceeding implements rules and procedures needed to comply with the recently enacted Commercial Spectrum Enhancement Act (CSEA). It establishes a mechanism for reimbursing federal agencies out of

spectrum auction proceeds for the cost of relocating their operations from certain ''eligible frequencies'' that have been reallocated from Federal to non-Federal use. It also seeks to improve the Commission's ability to achieve Congress's directives with regard to designated entities and to ensure that, in accordance with the intent of Congress, every recipient of its designated entity benefits is an entity that uses its licenses to directly provide facilities-based telecommunications services for the benefit of the public.

Timetable:

Action	Date	FR Cite
NPRM	06/14/05	70 FR 43372
NPRM Comment Period End	08/26/05	
Declaratory Ruling	06/14/05	70 FR 43322
R&O	01/24/06	71 FR 6214
FNPRM	02/03/06	71 FR 6992
FNPRM Comment Period End	02/24/06	
Second R&O	04/25/06	71 FR 26245
Order on Recon of Second R&O	06/02/06	71 FR 34272
NPRM	06/21/06	71 FR 35594
NPRM Comment Period End	08/21/06	
Reply Comment Period End	09/19/06	
2nd Order and Recon of 2nd R&O	04/04/08	73 FR 18528
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI88

574. FACILITATING THE PROVISION OF FIXED AND MOBILE BROADBAND ACCESS, EDUCATIONAL AND OTHER ADVANCED SERVICES IN THE 2150–2162 AND 2500–2690 MHZ BANDS

Legal Authority: 47 USC 154; 47 USC 301 to 303; 47 USC 307; 47 USC 309; 47 USC 332; 47 USC 336 and 337

Abstract: The Commission seeks comment on whether to assign Educational Broadband Service (EBS) spectrum in the Gulf of Mexico. It also seeks comment on how to license unassigned and available EBS spectrum. Specifically, we seek comment on whether it would be in the public interest to develop a scheme for licensing unassigned EBS spectrum that avoids mutual exclusivity; we ask whether EBS eligible entities could participate fully in a spectrum auction; we seek comment on the use of small business size standards and bidding credits for EBS if we adopt a licensing scheme that could result in mutually exclusive applications; we seek comment on the proper market size and size of spectrum blocks for new EBS licenses; and we seek comment on issuing one license to a State agency designated by the Governor to be the spectrum manager, using frequency coordinators to avoid mutually exclusive EBS applications, as well as other alternative licensing schemes. The Commission must develop a new licensing scheme for EBS in order to achieve the Commission's goal of facilitating the development of new and innovative wireless services for the benefit of students throughout the nation.

Timetable:

Action	Date	FR Cite
NPRM	04/02/03	68 FR 34560
NPRM Comment Period End	09/08/03	
FNPRM	07/29/04	69 FR 72048
FNPRM Comment Period End	01/10/03	
R&O	07/29/04	69 FR 72020
MO&O	04/27/06	71 FR 35178
FNPRM	03/20/08	73 FR 26067
FNPRM Comment Period End	07/07/08	
MO&O	03/20/08	73 FR 26032
MO&O	09/28/09	74 FR 49335
FNPRM	09/28/09	74 FR 49356
FNPRM Comment Period End	10/13/09	
R&O	06/03/10	75 FR 33729
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ12

575. AMENDMENT OF THE RULES REGARDING MARITIME AUTOMATIC IDENTIFICATION SYSTEMS (WT DOCKET NO. 04–344)

Legal Authority: 47 USC 154; 47 USC 302(a); 47 USC 303; 47 USC 306; 47 USC 307(e); 47 USC 332; 47 USC 154(i); 47 USC 161

Abstract: This action adopts additional measures for domestic implementation of Automatic Identification Systems (AIS), an advanced marine vessel tracking and navigation technology that can significantly enhance our nation's homeland security as well as maritime safety.

Timetable:

Action	Date	FR Cite
Final Rule	01/29/09	74 FR 5117
Final Rule Effective	03/02/09	
Petition for Recon	04/03/09	74 FR 15271
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ16

576. SERVICE RULES FOR ADVANCED WIRELESS SERVICES IN THE 2155–2175 MHZ BAND

Legal Authority: 47 USC 151 and 152; 47 USC 154(i); 47 USC 157; 47 USC 160; 47 USC 201; 47 USC 214; 47 USC 301

Abstract: This proceeding explores the possible uses of the 2155-2175 MHz frequency band (AWS-3) to support the introduction of new advanced wireless services, including third generations as well as future generations of wireless systems. Advanced wireless systems could provide for a wide range of voice data and broadband services over a variety of mobile and fixed networks.

The Notice of Proposed Rulemaking (NPRM) sought comment on what service rules should be adopted in the AWS-3 band. We requested comment on rules for licensing this spectrum in a manner that will permit it to be fully and promptly utilized to bring advanced wireless services to American consumers. Our objective is to allow for the most effective and efficient use of

the spectrum in this band, while also encouraging development of robust wireless broadband services. We proposed to apply our flexible, market-oriented rules to the band in order to meet this objective.

Thereafter, the Commission released a Further Notice of Proposed Rulemaking (FNPRM), seeking comment on the Commission's proposed AWS-3 rules, which include adding 5 megahertz of spectrum (2175-80 MHz) to the AWS-3 band, and requiring licensees of that spectrum to provide—using up to 25 percent of its wireless network capacity—free, two-way broadband Internet service at engineered data rates of at least 768 kbps downstream.

Timetable:

Action	Date	FR Cite
NPRM	11/14/07	72 FR 64013
NPRM Comment Period End	01/14/08	
FNPRM	06/25/08	73 FR 35995
FNPRM Comment Period End	08/11/08	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ19

577. SERVICE RULES FOR ADVANCED WIRELESS SERVICES IN THE 1915 TO 1920 MHZ, 1995 TO 2000 MHZ, 2020 TO 2025 MHZ, AND 2175 TO 2180 MHZ BANDS

Legal Authority: 47 USC 151 and 152; 47 USC 154(i); 47 USC 157; 47 USC 160; 47 USC 201; 47 USC 214; 47 USC 301; . . .

Abstract: This proceeding explores the possible uses of the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz, and 2175-2180 MHz Bands (collectively AWS-2) to support the introduction of new advanced wireless services, including third generations as well as future generations of wireless systems. Advanced wireless systems could provide for a wide range of voice data and broadband services over a variety of mobile and fixed networks.

The Notice of Proposed Rulemaking (NPRM) sought comment on what service rules should be adopted in the AWS-2 band. We requested comment on rules for licensing this spectrum in a manner that will permit it to be fully and promptly utilized to bring advanced wireless services to American consumers. Our objective is to allow for the most effective and efficient use of the spectrum in this band, while also encouraging development of robust wireless broadband services.

Thereafter, the Commission released a Further Notice of Proposed Rulemaking (FNPRM), seeking comment on the Commission's proposed rules for the 1915-1920 MHz and 1995-2000 MHz bands. In addition, the Commission proposed to add 5 megahertz of spectrum (2175-80 MHz band) to the 2155-2175 MHz band, and would require the licensee of the 2155-2180 MHz band to provide—using up to 25 percent of its wireless network capacity—free, two-way broadband Internet service at engineered data rates of at least 768 kbps downstream.

Timetable:

Action	Date	FR Cite
NPRM	11/02/04	69 FR 63489
NPRM Comment Period End	01/24/05	
FNPRM	06/25/08	73 FR 35995
FNPRM Comment Period End	08/11/08	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ20

578. RULES AUTHORIZING THE OPERATION OF LOW POWER AUXILIARY STATIONS IN THE 698–806 MHZ BAND, WT DOCKET NO. 08–166; PUBLIC INTEREST SPECTRUM COALITION, PETITION FOR RULEMAKING REGARDING LOW POWER AUXILIARY

Legal Authority: 47 USC 151 and 152; 47 USC 154(i) and 154(j); 47 USC 301 and 302(a); 47 USC 303; 47 USC 303(r); 47 USC 304; 47 USC 307 to 309; 47 USC 316; 47 USC 332; 47 USC 336 and 337

Abstract: In the Notice of Proposed Rulemaking and Order, to facilitate the DTV transition the Commission tentatively concludes to amend its rules to make clear that the operation of low power auxiliary stations within the 700 MHz Band will no longer be permitted after the end of the DTV transition. The Commission also tentatively concludes to prohibit the manufacture, import, sale, offer for sale, or shipment of devices that operate as low power auxiliary stations in the 700 MHz Band. In addition, for those licensees that have obtained authorizations to operate low power auxiliary stations in spectrum that includes the 700 MHz Band beyond the end of the DTV transition, the Commission tentatively concludes that it will modify these licenses so as not to permit such operations in the 700 MHz Band after February 17, 2009. The Commission also seeks comment on issues raised by the Public Interest Spectrum Coalition (PISC) in its informal complaint and petition for rulemaking.

The Commission also imposes a freeze on the filing of new license applications that seek to operate on any 700 MHz Band frequencies (698-806 MHz) after the end of the DTV transition, February 17, 2009, as well as on granting any request for equipment authorization of low power auxiliary station devices that would operate in any of the 700 MHz Band frequencies. The Commission also holds in abeyance, until the conclusion of this proceeding, any pending license applications and equipment authorization requests that involve operation of low power auxiliary devices on frequencies in the 700 MHz Band after the end of the DTV transition.

On January 15, 2010, the Commission released a Report and Order that prohibits the distribution and sale of wireless microphones that operate in the 700 MHz Band (698-806 MHz, channels 52-69) and includes a number of provisions to clear these devices from that band. These actions help complete an important part of the DTV transition by clearing the 700 MHz Band to enable the rollout of communications services for public safety and the deployment of next generation wireless devices.

On January 15, 2010, the Commission also released a Further Notice of Proposed Rulemaking seeking comment on the operation of low power auxiliary stations, including wireless microphones, in the core TV bands (channels 2-51, excluding channel 37). Among the issues the Commission is considering in the Further Notice are revisions to its rules to expand eligibility for licenses to operate wireless microphones under part 74; the operation of wireless microphones on an unlicensed basis in the core TV bands under part 15; technical rules to apply to low power wireless audio devices, including wireless microphones, operating in the core TV bands on an unlicensed basis under Part 15 of the rules; and long term solutions to address the operation of wireless microphones and the efficient use of the core TV spectrum.

Timetable:

Action	Date	FR Cite
NPRM	09/03/08	73 FR 51406
NPRM Comment Period End	10/20/08	
R&O	01/22/10	75 FR 3622
FNPRM	01/22/10	75 FR 3682
FNPRM Comment Period End	03/22/10	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ21

579. AMENDMENT OF THE COMMISSION'S RULES TO IMPROVE PUBLIC SAFETY COMMUNICATIONS IN THE 800 MHZ BAND, AND TO CONSOLIDATE THE 800 MHZ AND 900 MHZ BUSINESS AND INDUSTRIAL/LAND TRANSPORTATION POOL CHANNELS

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 303; 47 USC 309; 47 USC 332

Abstract: This action adopts rules that retain the current site-based licensing paradigm for the 900 MHz B/ILT ''white space''; adopts interference protection rules applicable to all licensees operating in the 900 MHz B/ILT spectrum; and lifts, on a rolling basis, the freeze placed on applications for new 900 MHz B/ILT licenses in September 2004—the lift being tied to the completion of rebanding in each 800 MHz National Public Safety Planning Advisory Committee (NPSPAC) region.

Timetable:

Action	Date	FR Cite
NPRM	03/18/05	70 FR 13143
NPRM Comment Period End	06/12/05	70 FR 23080
Final Rule	12/16/08	73 FR 67794
Petition for Recon	03/12/09	74 FR 10739

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ22

580. AMENDMENT OF PART 101 TO ACCOMMODATE 30 MHZ CHANNELS IN THE 6525–6875 MHZ BAND AND PROVIDE CONDITIONAL AUTHORIZATION ON CHANNELS IN THE 21.8–22.0 AND 23.0–23.2 GHZ BAND (WT DOCKET NO. 04–114)

Legal Authority: 47 USC 151 and 152; 47 USC 154(i); 47 USC 157; 47 USC 160; 47 USC 201; 47 USC 214; 47 USC 301 to 303; 47 USC 307 to 310; 47 USC 319; 47 USC 324; 47 USC 332 and 333

Abstract: The Commission seeks comments on modifying its rules to authorize channels with bandwidths of as much as 30 MHz in the 6525-6875 MHz band. We also propose to allow conditional authorization on additional channels in the 21.8-22.0 and 23.0-23.2 GHz bands.

Timetable:

Action	Date	FR Cite
NPRM	06/29/09	74 FR 36134
NPRM Comment Period End	07/22/09	
R&O	06/11/10	75 FR 41767

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ28

581. IN THE MATTER OF SERVICE RULES FOR THE 698 TO 746, 747 TO 762 AND 777 TO 792 MHZ BANDS

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 303(r); 47 USC 309

Abstract: This is one of several docketed proceedings involved in the establishment of rules governing wireless licenses in the 698-806 MHz Band (the 700 MHz Band). This spectrum is being vacated by television broadcasters in TV Channels 52-69. It is being made available for wireless services, including public safety and commercial services, as a result of the digital television (DTV) transition. This docket has to do with service rules for the commercial services, and is known as the 700 MHz Commercial Services proceeding.

Timetable:

Action	Date	FR Cite
NPRM	08/03/06	71 FR 48506
NPRM	09/20/06	
FNPRM	05/02/07	72 FR 24238
FNPRM Comment Period End	05/23/07	
R&O	07/31/07	72 FR 48814
Order on Recon	09/24/07	72 FR 56015
Second FNPRM	05/14/08	73 FR 29582
Second FNPRM Comment Period End	06/20/08	
Third FNPRM	09/05/08	73 FR 57750
Third FNPRM Comment Period End	11/03/08	
Second R&O	02/20/09	74 FR 8868
Final Rule	03/04/09	74 FR 8868

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ35

FCC—Wireless Telecommunications Bureau **Long-Term Actions**

582. IN THE MATTER OF EFFECTS OF COMMUNICATIONS TOWERS ON MIGRATORY BIRDS

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 303(q); 47 USC 303(r); 42 USC 4321 et seq

Abstract: On April 14, 2009, American Bird Conservancy, Defenders of Wildlife, and National Audubon Society filed a Petition for Expedited Rulemaking and Other Relief. The petitioners request that the Commission adopt on an expedited basis a variety of new rules, which they assert are necessary to comply with environmental statutes and their implementing regulations. This proceeding addresses the Petition for Expedited Rulemaking and Other Relief.

Timetable:

Action	Date	FR Cite
NPRM	11/22/06	71 FR 67510
NPRM Comment Period End	02/20/07	
New NPRM Comment Period End	05/23/07	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ36

583. AMENDMENT OF PART 90 OF THE COMMISSION'S RULES

Legal Authority: 47 USC 154; 47 USC 303

Abstract: This proceeding considers rule changes impacting miscellaneous part 90 Private Land Mobile Radio rules.

Timetable:

Action	Date	FR Cite
NPRM	06/13/07	72 FR 32582
FNPRM	04/14/10	75 FR 19340
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ37

584. • AMENDMENT OF PART 101 OF THE COMMISSION'S RULES FOR MICROWAVE USE AND BROADCAST AUXILIARY SERVICE FLEXIBILITY

Legal Authority: 47 USC 151 and 152; 47 USC 154 (i) and 157; 47 USC 160 and 201; 47 USC 214; 47 USC 301 to 303; 47 USC 307 to 310; 47 USC 319 and 324; 47 USC332 and 333

Abstract: In this document, the Commission commences a proceeding to remove regulatory barriers to the use of spectrum for wireless backhaul and other point-to-point and point-to-multipont communications.

Timetable:

Action	Date	FR Cite
NPRM	08/05/10	75 FR 52185
NPRM Comment Period End	11/22/10	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ47

585. • 2004 AND 2006 BIENNIAL REGULATORY REVIEWS —STREAMLINING AND OTHER REVISIONS OF THE COMMISSION'S RULES GOVERNING CONSTRUCTION, MARKING, AND LIGHTING OF ANTENNA STRUCTURES

Legal Authority: 47 USC 154(i)–(j) and 161; 47 USC 303(q)

Abstract: In this NPRM, the Commission seeks comment on revisions to part 17 of the Commission's rules governing construction, marking, and lighting of antenna structures. The Commission initiated this proceeding to update and modernize the part 17 rules. These proposed revisions are intended to improve compliance with these rules and allow the Commission to enforce them more effectively, helping to better ensure the safety of pilots and aircraft passengers nationwide. The proposed revisions would also remove outdated and burdensome requirements without compromising the Commission's statutory responsibility to prevent antenna structures from being hazards or menaces to air navigation.

Timetable:

Action	Date	FR Cite
NPRM	05/21/10	75 FR 28517
NPRM Comment Period End	08/19/10	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ50

Federal Communications Commission (FCC) **Completed Actions**

Wireless Telecommunications Bureau

586. AMENDMENTS OF VARIOUS RULES AFFECTING WIRELESS RADIO SERVICES (WT DOCKET NO. 03–264)

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 161; 47 USC 303(r)

Abstract: This rulemaking proposes to streamline and harmonize wireless radio service rules.

Timetable:

Action	Date	FR Cite
NPRM	02/23/04	69 FR 8132
NPRM Comment Period End	05/24/04	
NPRM	10/19/05	70 FR 60770
NPRM Comment Period End	12/19/05	
Final Rule	10/20/05	70 FR 61049

FCC—Wireless Telecommunications Bureau

Completed Actions

Action	Date	FR Cite
Proposed Rule	05/02/07	72 FR 24238
Final Rule	05/16/07	72 FR 27688
Final Rule	08/24/07	72 FR 48814
Final Rule	05/02/08	73 FR 24180

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI30

Federal Communications Commission (FCC)

Long-Term Actions

Wireline Competition Bureau

587. IMPLEMENTATION OF THE UNIVERSAL SERVICE PORTIONS OF THE 1996 TELECOMMUNICATIONS ACT

Legal Authority: 47 USC 151 et seq

Abstract: The goals of Universal Service, as mandated by the 1996 Act, are to promote the availability of quality services at just, reasonable, and affordable rates; increase access to advanced telecommunications services throughout the Nation; advance the availability of such services to all consumers, including those in low income, rural, insular, and high-cost areas at rates that are reasonably comparable to those charged in urban areas. In addition, the 1996 Act states that all providers of telecommunications services should contribute to Federal universal service in some equitable and nondiscriminatory manner; there should be specific, predictable, and sufficient Federal and State mechanisms to preserve and advance universal service; all schools, classrooms, health care providers, and libraries should, generally, have access to advanced telecommunications services; and finally, that the Federal-State Joint Board and the Commission should determine those other principles that, consistent with the 1996 Act, are necessary to protect the public interest.

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On October 9, 2009, the Commission issued an Order and Notice of Proposed (NPRM) addressing the effect of line loss on universal service Local Switching Support (LSS) received by incumbent local exchange carriers (LECs) that are designated as eligible telecommunications carriers (ETCs). Under the Commission's rules, as an incumbent LEC ETC's access lines increase above certain thresholds, the amount of LSS it may receive decreases. The order denies the Coalition for Equity in Switching Support's petition seeking clarification that the Commission's rules allow an incumbent LEC ETC's local switching support to increase if the carrier's access lines decrease below those thresholds. In the NPRM, the Commission tentatively concludes that the LSS rules should be modified to permitincumbent LEC ETCs that lose lines to increase their LSS; and the Commission seeks comment on these proposed rule changes.

On November 5, 2009, the Commission issued a Notice of Proposed Rulemaking that proposes to revise the Commission's rules for the schools and libraries universal service support mechanism, also known as the E-rate program, to comply with the requirements of the Protecting Children in the 21st Century Act. The Protecting Children in the 21st Century Act added a new certification requirement for elementary and secondary schools that have computers with Internet access and receive discounts under the E-rate program. The NPRM also proposes to revise related Commission rules to reflect existing statutory language more accurately.

On December 2, 2009, the Commission issued a Report and Order and Further Notice of Proposed Rulemaking (FNPRM) addressing and seeking comment on issues regarding the services eligible for funding under the schools and libraries universal service support mechanism, also known as the E-rate program. The order released the Funding Year 2010 E-rate Eligible Service List, concluding that interconnected voice over Internet protocol VoIP service is an eligible service and should continue to receive E-rate program funding. Additionally, the report and order clarifies the E-rate program eligibility of text messaging,

video on-demand servers, Ethernet, web hosting, wireless local area network (LAN) controllers, and virtualization software. The FNPRM seeks comment on the eligibility of certain services in future funding years, as well as on proposed changes to the process for determining the services that will be eligible for support under the E-rate program.

On December 8, 2009, the Commission sought comment on a petition for rulemaking filed by the National Cable and Telecommunications Association (NCTA). NCTA proposes that the Commission establish procedures to reduce the amount of universal service high-cost support provided to carriers in those areas of the country where there is extensive, unsubsidized facilities-based voice competition and where government subsidies no longer are needed to ensure that service will be made available to consumers.

On December 15, 2009, the Commission issued a Further Notice of Proposed Rulemaking responding to the decision of the United States Court of Appeals for the Tenth Circuit in Qwest Communications International, Inc. v. FCC, in which the court remanded the Commission's rules for providing high-cost universal service support to non-rural carriers. The Commission tentatively concluded that it should not attempt wholesale reform of the non-rural high-cost mechanism at this time, but it sought comment on certain interim changes to address the court's concerns and changes in the marketplace. Specifically, the Commission sought comment on what changes should be made to the Commission's rules regarding the rate comparability review and certification process, whether the Commission should define ''reasonably comparable'' rural and urban rates in terms of rates for bundled local and long distance services, and whether the Commission should require carriers to certify that they offer bundled local and long distance services at reasonably comparable rural and urban rates.

Timetable:

Action	Date	FR Cite
Recommended Decision Federal–State Joint Board, Universal Service	11/08/96	61 FR 63778
First R&O	05/08/97	62 FR 32862
Second R&O	05/08/97	62 FR 32862
Order on Recon	07/10/97	62 FR 40742
R&O and Second Order on Recon	07/18/97	62 FR 41294
Second R&O, and FNPRM	08/15/97	62 FR 47404
Third R&O	10/14/97	62 FR 56118
Second Order on Recon	11/26/97	62 FR 65036
Fourth Order on Recon	12/30/97	62 FR 2093
Fifth Order on Recon	06/22/98	63 FR 43088
Fifth R&O	10/28/98	63 FR 63993
Eighth Order on Recon	11/21/98	
Second Recommended Decision	11/25/98	63 FR 67837
Thirteenth Order on Recon	06/09/99	64 FR 30917
FNPRM	06/14/99	64 FR 31780
FNPRM	09/30/99	64 FR 52738
Fourteenth Order on Recon	11/16/99	64 FR 62120
Fifteenth Order on Recon	11/30/99	64 FR 66778
Tenth R&O	12/01/99	64 FR 67372
Ninth R&O and Eighteenth Order on Recon	12/01/99	64 FR 67416
Nineteenth Order on Recon	12/30/99	64 FR 73427
Twentieth Order on Recon	05/08/00	65 FR 26513
Public Notice	07/18/00	65 FR 44507
Twelfth R&O, MO&O and FNPRM	08/04/00	65 FR 47883
FNPRM and Order	11/09/00	65 FR 67322
FNPRM	01/26/01	66 FR 7867
R&O and Order on Recon	03/14/01	66 FR 16144
NPRM	05/08/01	66 FR 28718
Order	05/22/01	66 FR 35107
Fourteenth R&O and FNPRM	05/23/01	66 FR 30080
FNPRM and Order	01/25/02	67 FR 7327
NPRM	02/15/02	67 FR 9232
NPRM and Order	02/15/02	67 FR 10846
FNPRM and R&O	02/26/02	67 FR 11254
NPRM	04/19/02	67 FR 34653
Order and Second FNPRM	12/13/02	67 FR 79543
NPRM	02/25/03	68 FR 12020
Public Notice	02/26/03	68 FR 10724
Second R&O and FNPRM	06/20/03	68 FR 36961
Twenty–Fifth Order on Recon, R&O, Order, and FNPRM	07/16/03	68 FR 41996
NPRM	07/17/03	68 FR 42333
Order	07/24/03	68 FR 47453
Order	08/06/03	68 FR 46500
Order and Order on Recon	08/19/03	68 FR 49707
Order on Remand, MO&O, FNPRM	10/27/03	68 FR 69641
R&O, Order on Recon, FNPRM	11/17/03	68 FR 74492
R&O, FNPRM	02/26/04	69 FR 13794
R&O, FNPRM	04/29/04	
NPRM	05/14/04	69 FR 3130
NPRM	06/08/04	69 FR 40839
Order	06/28/04	69 FR 48232
Order on Recon & Fourth R&O	07/30/04	69 FR 55983
Fifth R&O and Order	08/13/04	69 FR 55097
Order	08/26/04	69 FR 57289
Second FNPRM	09/16/04	69 FR 61334
Order & Order on Recon	01/10/05	70 FR 10057
Sixth R&O	03/14/05	70 FR 19321
R&O	03/17/05	70 FR 29960
MO&O	03/30/05	70 FR 21779
NPRM & FNPRM	06/14/05	70 FR 41658
Order	10/14/05	70 FR 65850
Order	10/27/05	
NPRM	01/11/06	71 FR 1721
Report Number 2747	01/12/06	71 FR 2042
Order	02/08/06	71 FR 6485
FNPRM	03/15/06	71 FR 13393
R&O and NPRM	07/10/06	71 FR 38781
Order	01/01/06	71 FR 6485
Order	05/16/06	71 FR 30298
MO&O and FNPRM	05/16/06	71 FR 29843
R&O	06/27/06	71 FR 38781
Public Notice	08/11/06	71 FR 50420
Order	09/29/06	71 FR 65517
Public Notice	03/12/07	72 FR 36706
Public Notice	03/13/07	72 FR 40816
Public Notice	03/16/07	72 FR 39421
Notice of Inquiry	04/16/07	
NPRM	05/14/07	72 FR 28936
Recommended Decision	11/20/07	
Order	02/14/08	73 FR 8670
NPRM	03/04/08	73 FR 11580
NPRM	03/04/08	73 FR 11591
R&O	05/05/08	73 FR 11837
Public Notice	07/02/08	73 FR 37882
NPRM	08/19/08	73 FR 48352
Notice of Inquiry	10/14/08	73 FR 60689
Order on Remand, R&O, FNPRM	11/12/08	73 FR 66821
R&O	05/22/09	74 FR 2395
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AF85

588. TELECOMMUNICATIONS CARRIERS' USE OF CUSTOMER PROPRIETARY NETWORK INFORMATION AND OTHER CUSTOMER INFORMATION

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 222; 47 USC 272; 47 USC 303(r)

Abstract: The Commission adopted rules implementing the new statutory framework governing carrier use and disclosure of customer proprietary network information (CPNI) created by section 222 of the Communications Act of 1934, as amended. CPNI includes, among other things, to whom, where, and when a customer places a call, as well as the types of service offerings to which the customer subscribes and the extent to which the service is used.

Timetable:

Action	Date	FR Cite
NPRM	05/28/96	61 FR 26483
Public Notice	02/25/97	62 FR 8414
Second R&O and FNPRM	04/24/98	63 FR 20364
Order on Recon	10/01/99	64 FR 53242
Final Rule, Announcement of Effective Date	01/26/01	66 FR 7865
Clarification Order and Second NPRM	09/07/01	66 FR 50140
Third R&O and Third FNPRM	09/20/02	67 FR 59205
NPRM	03/15/06	71 FR 13317
NPRM	06/08/07	72 FR 31782
Final Rule, Announcement of Effective Date	06/08/07	72 FR 31948
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AG43

589. IMPLEMENTATION OF THE LOCAL COMPETITION PROVISIONS OF THE TELECOMMUNICATIONS ACT OF 1996

Legal Authority: 47 USC 151 to 155; 47 USC 157; 47 USC 201 to 205; 47 USC 207 to 209; 47 USC 218; 47 USC 251

Abstract: On August 8, 1996, the Commission adopted the Local Competition Second Report and Order (FCC 96-333), implementing the dialing parity, nondiscriminatory access, network disclosure, and numbering administration provisions of the Telecommunications Act of 1996. On July 19, 1999, the Commission released the First Order on Reconsideration (FCC 99-170), denying the petition for reconsideration of the Local Competition Second Report and Order filed by Beehive Telephone Company, Inc., which related to numbering administration.

On September 9, 1999, the Commission released the Second Order on Reconsideration (FCC 99-227), resolving petitions for reconsideration of rules adopted in the Local Competition Second Report and Order to implement the requirement of 47 U.S.C. section 251(b)(3) that LECs provide non-discriminatory access to directory assistance, directory listing, and operator services. At the same time, the Commission released a Notice of Proposed Rulemaking (NPRM) (also FCC 99-227) seeking comment on issues related to developments in, and the convergence of, directory publishing and directory assistance.

On October 21, 1999, the Commission released the Third Order on Reconsideration (FCC 99-243), resolving the remaining petitions for reconsideration regarding numbering administration under 47 U.S.C. section 251(e)(1). On January 23, 2001, the Commission released a First Report and Order (FCC 01-27) resolving issues raised in the September 9, 1999 NPRM and concluding, among other things, that competing directory assistance (DA) providers that are certified as competitive local exchange carriers (competitive LECs), are agents of competitive LECs, or that offer call completion services are entitled to nondiscriminatory access to LEC local DA databases.

On January 9, 2002, the Commission released the Directory Assistance NPRM (FCC 01-384), in which the Commission solicited comment on whether there is sufficient competition in the retail DA market, and if not, what if any action the Commission should take to promote such competition. The Commission sought specific comment on whether alternative dialing methods would promote competition. Proposed methods include: (1) Presubscription to 411; (2) utilizing national 555 numbers; (3) utilizing carrier access codes (1010 numbers); and (4) utilizing 411XX numbers. The Commission also sought comment on whether the 411 dialing code should be eliminated. This proceeding is pending before the Commission.

On January 29, 2002, the Commission released an Order on Reconsideration (FCC 02-11) dismissing petitions for reconsideration or clarification of the Local Competition Second Report and Order regarding dialing parity under 47 U.S.C. section 251(b)(3) and network disclosure under 47 U.S.C. section 251(c)(5).

On May 3, 2005, the Commission released an Order on Reconsideration (FCC 05-93) resolving petitions for reconsideration of the Second Order on Reconsideration and the First Report and Order. The Commission clarified its rules regarding the use of DA data obtained pursuant to section 251(b)(3) of the Act, and denied BellSouth and SBC's joint petition for reconsideration which sought authority to place contractual restrictions on competing DA providers' use of DA information. The Commission reaffirmed that LECs are required to provide nondiscriminatory access to their entire local DA database including local DA data acquired from third parties. The Commission also accepted Qwest's request to withdraw its petition for reconsideration of the First Report and Order, and resolved SBC's petition for reconsideration of the Second Order on Reconsideration.

Timetable:

Action	Date	FR Cite
NPRM	04/25/96	61 FR 18311
NPRM Reply Comment Period End	06/03/96	
Second R&O	09/06/96	61 FR 47284
Second Order on Recon	09/27/99	64 FR 51910
NPRM	09/27/99	64 FR 51949
Third Order on Recon	11/18/99	64 FR 62983
First R&O	02/21/01	66 FR 10965
NPRM	02/14/02	67 FR 6902
Order on Recon	08/17/05	70 FR 48290
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AG50

590. LOCAL TELEPHONE NETWORKS THAT LECS MUST MAKE AVAILABLE TO COMPETITORS

Legal Authority: 47 USC 251

Abstract: The Commission adopted rules applicable to incumbent local exchange carriers (LECs) to permit competitive carriers to access portions of the incumbent LECs' networks on an unbundled basis. Unbundling allows competitors to lease portions of the incumbent LECs' network to provide telecommunications services. These rules are intended to accelerate the development of local exchange competition.

Timetable:

Action	Date	FR Cite
Second FNPRM	04/26/99	64 FR 20238
Fourth FNPRM	01/14/00	65 FR 2367
Errata Third R&O and Fourth FNPRM	01/18/00	65 FR 2542
Second Errata Third R&O and Fourth FNPRM	01/18/00	65 FR 2542
Supplemental Order	01/18/00	65 FR 2542
Third R&O	01/18/00	65 FR 2542
Correction	04/11/00	65 FR 19334
Supplemental Order Clarification	06/20/00	65 FR 38214
Public Notice	02/01/01	66 FR 8555
Public Notice	03/05/01	66 FR 18279
Public Notice	04/10/01	
Public Notice	04/23/01	
Public Notice	05/14/01	
NPRM	01/15/02	67 FR 1947
Public Notice	05/29/02	
Public Notice	08/01/02	
Public Notice	08/13/02	
NPRM	08/21/03	68 FR 52276
R&O and Order on Remand	08/21/03	68 FR 52276
Errata	09/17/03	
Report	10/09/03	68 FR 60391
Order	10/28/03	
Order	01/09/04	
Public Notice	01/09/04	
Public Notice	02/18/04	
Order	07/08/04	
Second R&O	07/08/04	69 FR 43762
Order on Recon	08/09/04	69 FR 54589
Interim Order	08/20/04	69 FR 55111
NPRM	08/20/04	69 FR 55128
Public Notice	09/10/04	
Public Notice	09/13/04	
Public Notice	10/20/04	
Order on Recon	12/29/04	69 FR 77950
Order on Remand	02/04/04	
Public Notice	04/25/05	70 FR 29313
Public Notice	05/25/05	70 FR 34765

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH44

591. 2000 BIENNIAL REGULATORY REVIEW—TELECOMMUNICATIONS SERVICE QUALITY REPORTING REQUIREMENTS

Legal Authority: 47 USC 154(i) and 154(j); 47 USC 201(b); 47 USC 303(r); 47 USC 403

Abstract: This NPRM proposes to eliminate our current service quality reports (ARMIS Report 43-05 and 43-06) and replace them with a more consumer-oriented report. The NPRM proposes to reduce the reporting categories from more than 30 to 6, and addresses the needs of carriers, consumers, state public utility commissions, and other interested parties.

Timetable:

Action	Date	FR Cite
NPRM	12/04/00	65 FR 75657
NPRM Comment Period End	02/16/01	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH72

592. ACCESS CHARGE REFORM AND UNIVERSAL SERVICE REFORM

Legal Authority: 47 USC 151; 47 USC 154(i) and 154(j); 47 USC 201 to 205; 47 USC 254; 47 USC 403

Abstract: On October 11, 2001, the Commission adopted an Order reforming the interstate access charge and universal service support system for rate-of-return incumbent carriers. The Order adopts three principal reforms. First, the Order modifies the interstate access rate structure for small carriers to align it more closely with the manner in which costs are incurred. Second, the Order removes implicit support for universal service from the rate structure and replaces it with explicit, portable support. Third, the Order permits small carriers to continue to set rates based on the authorized rate of return of 11.25 percent. The Order became effective on January 1, 2002, and the support mechanism established by the Order was implemented beginning July 1, 2002.

The Commission also adopted a Further Notice of Proposed Rulemaking (FNPRM) seeking additional comment on proposals for incentive regulation, increased pricing flexibility for rate-of-return carriers, and proposed changes to the Commission's ''all-or-nothing'' rule. Comments on the FNPRM were due on February 14, 2002, and reply comments on March 18, 2002.

On February 12, 2004, the Commission adopted a Second Report and Order resolving several issues on which the Commission sought comment in the FNPRM. First, the Commission modified the ''all-or-nothing'' rule to permit rate-of-return carriers to bring recently acquired price cap lines back to rate-of-return regulation. Second, the Commission granted rate-of-return carriers the authority immediately to provide geographically deaveraged transport and special access rates, subject to certain limitations. Third, the Commission merged Long Term Support (LTS) with Interstate Common Line Support (ICLS).

The Commission also adopted a Second FNPRM seeking comment on two specific plans that propose establishing optional alternative regulation mechanisms for rate-of-return carriers. In conjunction with the consideration of those alternative regulation proposals, the Commission sought comment on modification that would permit a rate-of-return carrier to adopt an alternative regulation plan for some study areas, while retaining rate-of-return regulation for other of its study areas. Comments on the Second

FNPRM were due on April 23, 2004, and May 10, 2004.

Timetable:

Action	Date	FR Cite
NPRM	01/25/01	66 FR 7725
NPRM Comment Period End	02/26/01	
FNPRM	11/30/01	66 FR 59761
FNPRM Comment Period End	12/31/01	
R&O	11/30/01	66 FR 59719
Second FNPRM	03/23/04	69 FR 13794
Second FNPRM Comment Period End	04/23/04	
Order	05/06/04	69 FR 25325
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH74

593. NUMBERING RESOURCE OPTIMIZATION

Legal Authority: 47 USC 151; 47 USC 154; 47 USC 201 et seq; 47 USC 251(e)

Abstract: In 1999, the Commission released the Numbering Resource Optimization Notice of Proposed Rulemaking (Notice) in CC Docket 99-200. The Notice examined and sought comment on several administrative and technical measures aimed at improving the efficiency with which telecommunications numbering resources are used and allocated. It incorporated input from the North American Numbering Council (NANC), a Federal advisory committee, which advises the Commission on issues related to number administration.In the Numbering Resource Optimization First Report and Order and Further Notice of Proposed Rulemaking (NRO First Report and Order), released on March 31, 2000, the Commission adopted a mandatory utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and incentives to use numbers efficiently. In addition, the Commission adopted a single system for allocating numbers in blocks of 1,000, rather than 10,000, wherever possible, and established a plan for national rollout of thousands-block number pooling. The Commission also adopted numbering resource reclamation requirements to ensure that unused numbers are returned to the North American Numbering Plan (NANP) inventory for assignment to other carriers. Also, to encourage better management of numbering resources, carriers are required, to the extent possible, to first assign numbering resources within thousands blocks (a form of sequential numbering).

In the NRO Second Report and Order, the Commission adopted a measure that requires all carriers to use at least 60 percent of their numbering resources before they may get additional numbers in a particular area. That 60 percent utilization threshold increases to 75 percent over the next 3 years. The Commission also established a 5-year term for the national Pooling Administrator and an auditing program to verify carrier compliance with the Commission's rules. Furthermore, the Commission addressed several issues raised in the Notice, concerning area code relief. Specifically, the Commission declined to amend the existing Federal rules for area code relief or specify any new Federal guidelines for the implementation of area code relief. The Commission also declined to state a preference for either all-services overlays or geographic splits as a method of area code relief. Regarding mandatory nationwide ten-digit dialing, the Commission declined to adopt this measure at the present time. Furthermore, the Commission declined to mandate nationwide expansion of the ''D digit'' (the ''N'' of an NXX or central office code) to include 0 or 1, or to grant state commissions the authority to implement the expansion of the D digit as a numbering resource optimization measure at the present time.

In the NRO Third Report and Order, the Commission addressed national thousands-block number pooling administration issues, including declining to alter the implementation date for covered CMRS carriers to participate in pooling. The Commission also addressed Federal cost recovery for national thousands-block number pooling, and continued to require States to establish cost recovery mechanisms for costs incurred by carriers participating in pooling trials. The Commission reaffirmed the Months-To-Exhaust (MTE) requirement for carriers. The Commission declined to lower the utilization threshold established in the Second Report and Order, and declined to exempt pooling carriers from the utilization threshold. The Commission also established a safety valve mechanism to allow carriers that do not meet the utilization threshold in a given rate center to obtain additional numbering resources.

In the NRO Third Report and Order, the Commission lifted the ban on technology-specific overlays (TSOs), and delegated authority to the Common Carrier Bureau, in consultation with the Wireless Telecommunications Bureau, to resolve any such petitions. Furthermore, the Commission found that carriers who violate our numbering requirements, or fail to cooperate with an auditor conducting either a ''for cause'' or random audit, should be denied numbering resources in certain instances. The Commission also reaffirmed the 180-day reservation period, declined to impose fees to extend the reservation period, and found that State commissions should be allowed password-protected access to the NANPA database for data pertaining to NPAs located within their State.

The measures adopted in the NRO orders will allow the Commission to monitor more closely the way numbering resources are used within the NANP, and will promote more efficient allocation and use of NANP resources by tying a carrier's ability to obtain numbering resources more closely to its actual need for numbers to serve its customers. These measures are designed to create national standards to optimize the use of numbering resources by: (1) Minimizing the negative impact on consumers of premature area code exhausts; (2) ensuring sufficient access to numbering resources for all service providers to enter into or to compete in telecommunications markets; (3) avoiding premature exhaust of the NANP; (4) extending the life of the NANP; (5) imposing the least societal cost possible, and ensuring competitive neutrality, while obtaining the highest benefit; (6) ensuring that no class of carrier or consumer is unduly favored or disfavored by the Commission's optimization efforts; and (7) minimizing the incentives for carriers to build and

carry excessively large inventories of numbers.

In NRO Third Order on Recon in CC Docket No. 99-200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99-200 and Second Further Notice of Proposed Rulemaking in CC Docket No, 95-116, the Commission reconsidered its findings in the NRO Third Report and Order regarding the local Number portability (LNP) and thousands-block number pooling requirements for carriers in the top 100 Metropolitan Statistical areas (MSAs). Specifically, the Commission reversed its clarification that those requirements extend to all carriers in the largest 100 MSAs, regardless of whether they have received a request from another carrier to provide LNP. The Commission also sought comment on whether the Commission should again extend the LNP requirements to all carriers in the largest 100 MSAs, regardless of whether they receive a request to provide LNP. The Commission also sought comment on whether all carriers in the top 100 MSAs should be required to participate in thousands-block number pooling, regardless of whether they are required to be LNP capable. In addition, the Commission sought comment on whether all MSAs included in Combined Metropolitan Statistical Areas (CMSAs) on the Census Bureau's list of the largest 100 MSAs should be included on the Commission's list of the top 100 MSAs.

In the NRO Fourth Report and Order and Further Notice of Proposed Rulemaking, the Commission reaffirmed that carriers must deploy LNP in switches within the 100 largest Metropolitan Statistical Areas (MSAs) for which another carrier has made a specific request for the provision of LNP. The Commission delegated the authority to state commissions to require carriers operating within the largest 100 MSAs that have not received a specific request for LNP from another carrier to provide LNP, under certain circumstances and on a case-by-case basis. The Commission concluded that all carriers, except those specifically exempted, are required to participate in thousands-block number pooling in accordance with the national rollout schedule, regardless of whether they are required to provide LNP, including commercial mobile radio service (CMRS) providers that were required to deploy LNP as of November 24, 2003. The Commission specifically exempted from the pooling requirement rural telephone companies and Tier III CMRS providers that have not received a request to provide LNP. The Commission also exempted from the pooling requirement carriers that are the only service provider receiving numbering resources in a given rate center. Additionally, the Commission sought further comment on whether these exemptions should be expanded to include carriers where there are only two service providers receiving numbering resources in the rate center. Finally, the Commission reaffirmed that the 100 largest MSAs identified in the 1990 U.S. Census reports as well as those areas included on any subsequent U.S. Census report of the 100 largest MSAs.

In the NRO Order and Fifth Further Notice of Proposed Rulemaking, the Commission granted petitions for delegated authority to implement mandatory thousands-block pooling filed by the Public Service Commission of West Virginia, the Nebraska Public Service Commission, the Oklahoma Corporation Commission, the Michigan Public Service Commission, and the Missouri Public Service Commission. In granting these petitions, the Commission permitted these states to optimize numbering resources and further extend the life of the specific numbering plan areas. In the Further Notice of Proposed Rulemaking, the Commission sought comment on whether it should delegate authority to all states to implement mandatory thousands-block number pooling consistent with the parameters set forth in the NRO Order.

Timetable:

Action	Date	FR Cite
NPRM	06/17/99	64 FR 32471
R&O and FNPRM	06/16/00	65 FR 37703
Second R&O and Second FNPRM	02/08/01	66 FR 9528
Third R&O and Second Order on Recon	02/12/02	67 FR 643
Third O on Recon and Third FNPRM	04/05/02	67 FR 16347
Fourth R&O and Fourth NPRM	07/21/03	68 FR 43003
Order and Fifth FNPRM	03/15/06	71 FR 13393
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AH80

594. NATIONAL EXCHANGE CARRIER ASSOCIATION PETITION

Legal Authority: 47 USC 151 and 152; 47 USC 201 and 202; . . .

Abstract: In a Notice of Proposed Rulemaking (NPRM) released on July 19, 2004, the Commission initiated a rulemaking proceeding to examine the proper number of end user common line charges (commonly referred to as subscriber line charges or SLCs) that carriers may assess upon customers that obtain derived channel T-1 service where the customer provides the terminating channelization equipment and upon customers that obtain Primary Rate Interface (PRI) Integrated Service Digital Network (ISDN) service.

Timetable:

Action	Date	FR Cite
NPRM	08/13/04	69 FR 50141
NPRM Comment Period End	11/12/04	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI47

595. IP–ENABLED SERVICES

Legal Authority: 47 USC 151 and 152; . . .

Abstract: The notice seeks comment on ways in which the Commission might categorize IP-enabled services for purposes of evaluating the need for applying any particular regulatory requirements. It poses questions regarding the proper allocation of jurisdiction over each category of IP-enabled service. The notice then requests comment on whether the services comprising each category constitute ''telecommunications services'' or ''information services''

under the definitions set forth in the Act. Finally, noting the Commission's statutory forbearance authority and title I ancillary jurisdiction, the notice describes a number of central regulatory requirements (including, for example, those relating to access charges, universal service, E911, and disability accessibility), and asks which, if any, should apply to each category of IP-enabled services.

On June 16, 2005, the Commission published in the Federal Register notice that public information collections set forth in the First Report and Order were being submitted for review to the office of management and budget.

On July 27, 2005, the Commission published in the Federal Register notice that the information collection requirements adopted in the First Report and Order were approved in OMB No. 3060-1085 and would become effective on July 29, 2005.

On August 31, 2005, the Commission published in the Federal Register notice of the comment cycle for three Petitions for Reconsideration and/or Clarification of the First Report and Order.On July 10, 2006, the Commission published in the Federal Register notice that it had adopted on June 21, 2006, rules that make interim modifications to the existing approach for assessing contributions to the Federal universal service fund (USF or Fund) in order to provide stability while the Commission continues to examine more fundamental reform.

On June 8, 2007, the Commission published in the Federal Register notice that it had adopted on April 2, 2007, an item strengthening the Commission's rules to protect the privacy of customer proprietary network information (CPNI) that is collected and held by providers of communications services, and a further notice of proposed rulemaking seeking comment on what steps the Commission should take, if any, to secure further the privacy of customer information.

On August 6, 2007, the Commission published in the Federal Register notice that it had adopted on May 31, 2007, and item extending the disability access requirements that currently apply to telecommunications service providers and equipment manufacturers under section 255 of the Communications Act of 1934, as amended, to providers of ''interconnected voice over Internet Protocol (VoIP) services,'' as defined by the Commission, and to manufacturers of specially designed equipment used to provide those services. In addition, the Commission extended the Telecommunications Relay Services (TRS) requirements contained in its regulations to interconnected VoIP providers.

On August 7, 2007, the Commission published in the Federal Register a notice that a petition for reconsideration of the CPNI order described above had been filed.

On August 16, 2007, the Commission published in the Federal Register notice that it had adopted on August 2, 2007, an item amending the Commission's Schedule of Regulatory Fees by, inter alia, incorporating regulatory fee payment obligations for interconnected VoIP service providers, which shall become effective November 15, 2007, which is 90 days from date of notification to Congress.

On November 1, 2007, the Commission gave notice that it granted in part, denied in part, and sought comment on petitions filed by the Voice on the Net Coalition, the United States Telecom Association, and Hamilton Telephone Company seeking a stay or waiver of certain aspects of the Commission's VoIP Telecommunications Relay Services (TRS) Order (72 FR 61813; 72 FR 61882).

On December 13, 2007, the Commission announced the effective date of its revised CPNI rules (72 FR 70808).

On December 6, 2007, OMB approved the public information collection pursuant to the Paperwork Reduction Act of 1995 for the Commission's CPNI rules (72 FR 72358).

On February 21, 2008, the Commission published in the Federal Register notice that the Commission adopted rules extending local number portability obligations and numbering administration support obligations to interconnected VoIP services. The Commission also explained it had responded to the District of Columbia Circuit Court of Appeals stay of the Commission's Intermodal Number Portability Order by publishing a Final Regulatory Flexibility Act (73 FR 9463; R&O 02/21/2008).

On February 21, 2008, the Commission published in the Federal Register notice that it sought comment on other changes to its LNP and numbering related rules, including whether to extend such rules to interconnected VoIP providers (73 FR 9507).

On August 6, 2007, the Commission published in the Federal Register notice that it had extended Telecommunications Relay Services (TRS) regulations to interconnected VoIP providers and extended certain disability access requirements to interconnected VoIP providers and to manufacturers of specially designed equipment used to provide such service (72 FR 43546).

On May 15, 2008, the Commission's Consumer and Governmental Affairs Bureau (CGB) published in the Federal Register notice that it had granted interconnected VoIP providers an extension of time to route 711-dialed calls to an appropriate telecommunications relay service (TRS) center in certain circumstances (73 FR 28057). On July 29, 2009, CGB published notice in the Federal Register that it was granting another extension. (74FR 37624)

On August 7, 2009, the Commission published a notice in the Federal Register that it had amended its rules so that providers of interconnected VoIP service must comply with the same discontinuance rules as domestic non-dominant telecommunications carriers. (74 FR 39551)

Timetable:

Action	Date	FR Cite
NPRM	03/29/04	69 FR 16193
NPRM Comment Period End	07/14/04	
First R&O	06/03/05	70 FR 37273
Public Notice	06/16/05	70 FR 37403
First R&O Effective	07/29/05	70 FR 43323
Public Notice	08/31/05	70 FR 51815
R&O	07/10/06	71 FR 38781
R&O and FNPRM	06/08/07	72 FR 31948
FNPRM Comment Period End	07/09/07	72 FR 31782
R&O	08/06/07	72 FR 43546
Public Notice	08/07/07	72 FR 44136
R&O	08/16/07	72 FR 45908
Public Notice	11/01/07	72 FR 61813
Public Notice	11/01/07	72 FR 61882
Public Notice	12/13/07	72 FR 70808
Public Notice	12/20/07	72 FR 72358
R&O	02/21/08	73 FR 9463
NPRM	02/21/08	73 FR 9507
Order	05/15/08	73 FR 28057
Order	07/29/09	74 FR 37624
R&O	08/07/09	74 FR 39551
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI48

596. CONSUMER PROTECTION IN THE BROADBAND ERA

Legal Authority: 47 USC 151 to 154; 47 USC 160; 47 USC 201 to 205; 47 USC 214; 47 USC 222; 47 USC 225; 47 USC 251 and 252; 47 USC 254 to 256; 47 USC 258; 47 USC 303(R)

Abstract: The Federal Communications Commission initiated this rulemaking in order to develop a framework that ensures that, as the telecommunications industry shifts from narrowband to broadband services, consumer protection needs are met by all providers of broadband Internet access service, regardless of the underlying technology providers use to offer the service. The Commission sought comment on whether adopting regulations, pursuant to its ancillary authority under Title I of the Communications Act, to address consumer privacy, unauthorized changes to service, truth-in-billing, network outage reporting, discontinuance of service, rate averaging, and enforcement concerns, would be desirable and necessary as a matter of public policy. The Commission also sought comment on whether it should instead rely on market forces to address some or all of these areas of potential concern. The rulemaking also explores whether there are other areas of consumer protection related to wireline broadband Internet access service for which the Commission should adopt regulations pursuant to its ancillary authority.

Timetable:

Action	Date	FR Cite
NPRM	10/17/05	70 FR 60259
NPRM Comment Period End	03/01/06	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AI73

597. ESTABLISHING JUST AND REASONABLE RATES FOR LOCAL EXCHANGE CARRIERS (WC DOCKET NO. 07–135)

Legal Authority: Not Yet Determined

Abstract: The Federal Communications Commission (Commission) is examining whether its existing rules governing the setting of tariffed rates by local exchange carriers (LECs) provide incentives and opportunities for carriers to increase access demand endogenously with the result that the tariff rates are no longer just and reasonable. The Commission tentatively concluded that it must revise its tariff rules so that it can be confident that tariffed rates remain just and reasonable even if a carrier experiences or induces significant increases in access demand. The Commission seeks comment on the types of activities that are causing the increases in interstate access demand and the effects of such demand increases on the cost structures of LECs. The Commission also seeks comment on several means of ensuring just and reasonable rates going forward. The NPRM invites comment on potential traffic stimulation by rate-of-return LECs, price cap LECs, and competitive LECs, as well as other forms of intercarrier traffic stimulation. Comments were received on December 17, 2007, and reply comments were received on January 16, 2008.

Timetable:

Action	Date	FR Cite
NPRM	11/15/07	72 FR 64179
NPRM Comment Period End	12/17/07	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ02

598. JURISDICTIONAL SEPARATIONS

Legal Authority: 47 USC 151; 47 USC 154(i) and 154(j); 47 USC 205; 47 USC 221(c); 47 USC 254; 47 USC 403; 47 USC 410

Abstract: Jurisdictional separations is the process, pursuant to part 36 of the Commission's rules, by which incumbent local exchange carriers apportion regulated costs between the intrastate and interstate jurisdictions. In 1997, the Commission initiated a proceeding seeking comment on the extent to which legislative changes, technological changes, and market changes warrant comprehensive reform of the separations process. In 2001, the Commission adopted the Federal-State Joint Board on Jurisdictional Separations' recommendation to impose an interim freeze of the part 36 category relationships and jurisdictional cost allocation factors for a period of five years, pending comprehensive reform of the part 36 separations rules. In 2006, the Commission adopted an Order and Further Notice of Proposed Rulemaking, which extended the separations freeze for a period of three years and sought comment on comprehensive reform. In 2009, the Commission adopted a Report and Order extending the separations process an additional year to June 2010.

Timetable:

Action	Date	FR Cite
NPRM	11/05/97	62 FR 59842
NPRM Comment Period End	12/10/97	
Order	06/21/01	66 FR 33202
Order and FNPRM	05/26/06	71 FR 29882
Order and FNPRM Comment Period End	08/22/06	
Report and Order	05/15/09	74 FR 23955
R&O	05/25/10	75 FR 30301

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ06

599. IMPLEMENTATION OF NET 911 IMPROVEMENT ACT

Legal Authority: PL 110–283

Abstract: On July 23, 2008, the New and Emerging Technologies Act was enacted.

On August 25, 2008, the Commission released an NPRM seeking comment on implementing the NET 911 Improvement Act.

Timetable:

Action	Date	FR Cite
NPRM	08/28/08	73 FR 50741
NPRM Comment Period End	09/09/08	
Order	07/06/09	74 FR 31860

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ09

600. ● SERVICE QUALITY, CUSTOMER SATISFACTION, INFRASTRUCTURE AND OPERATING DATA GATHERING (WC DOCKET NOS. 08–190, 07–139, 07–204, 07–273, 07–21)

Legal Authority: 47 USC 151 to 155; 47 USC 160 and 161; 47 USC 20 to 205; 47 USC 215; 47 USC 218 to 220; 47 USC 251 to 271; 47 USC 303(r) and 332; 47 USC 403; 47 USC 502 and 503

Abstract: This NPRM tentatively proposes to collect infrastructure and operating data that is tailored in scope to be consistent with Commission objectives from all facilities-based providers of broadband and telecommunications. Similarly, the NPRM also tentatively proposes to collect data concerning service quality and customer satisfaction from all facilities-based providers of broadband and telecommunications. The NPRM seeks comment on the proposals, on the specific information to be collected, and on the mechanisms for collecting information.

Timetable:

Action	Date	FR Cite
NPRM	10/15/08	73 FR 60997
NPRM Comment Period End	11/14/08	
Reply Comment Period End	12/15/08	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ14

601. ● PETITION TO ESTABLISH PROCEDURAL REQUIREMENTS TO GOVERN PROCEEDINGS FOR FORBEARANCE UNDER SECTION 10 OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED. (WC DOCKET NO.07–267)

Legal Authority: 47 USC 151; 47 USC 154 (i); 47 USC 154 (j); 47 USC 155(c); 47 USC 160; 47 USC 201; 47 USC 303(r)

Abstract: This Report and Order implements procedural rules governing petitions for forbearance filed pursuant to section 10 of the Communications Act of 1934, as amended. Pursuant to section 10, the Commission shall forbear from applying any statutory provision or regulation if it determines that: (1) Enforcement of the regulation is not necessary to ensure that the telecommunications carrier's charges, practices, classifications, or regulations are just, reasonable, and not unjustly or unreasonably discriminatory; (2) enforcement of the regulation is not necessary to protect consumers; and (3) forbearance from applying such provision or regulation is consistent with the public interest. In determining whether forbearance is consistent with the public interest, the Commission also must consider whether forbearance from enforcing the provision or regulation will promote competitive market conditions. The Commission must act on forbearance petitions within one year; if the Commission fails to act the petition is deemed granted. In order to act within 1 year, and to present a stable petition for comment, this Order requires that forbearance petitions must be complete as filed. This rule requires forbearance petitioners to state with specificity all relevant provisions, rules, carriers, services, geographic areas, and other factors; to apply each statutory criterion to each rule; to identify needed data that the petitioner lacks; to meet routine filing requirements at 47 C.F.R §1.49; and to send the petition to forbearance@fcc.gov, together with supporting data (including market data) and any supporting statements. The Order further clarifies that whenever a petitioner files a petition for forbearance, the petitioner bears the burden of proof with respect to establishing that the statutory criteria for granting forbearance are met. The Order adopts procedures to ensure that forbearance petitions are addressed in a manner that is actively managed, transparent, and fair. Notable among these are rules restricting ex parte communications 14 days before the deadline for Commission action, and limiting unauthorized withdrawals of forbearance petitions after the reply comment date plus 10 business days.

Timetable:

Action	Date	FR Cite
NPRM	02/06/08	73 FR 6888
Final Action	08/06/09	74 FR 39219

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

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RIN: 3060–AJ31

602. LOCAL NUMBER PORTABILITY PORTING INTERVAL AND VALIDATION REQUIREMENTS (WC DOCKET NO 07–244)

Legal Authority: 47 USC 151; 47 USC 154(i); 47 USC 154(j); 47 USC 251; 47 USC 303(r)

Abstract: In 2007, the Commission released a Notice of Proposed Rulemaking in WC Docket No. 07-244. The Notice sought comment on whether the Commission should adopt rules specifying the length of the porting intervals or other details of the porting process. It also tentatively concluded that the Commission should adopt rules reducing the porting interval for wireline-to-wireline and intermodal simple port requests, specifically, to a 48-hour porting interval.

In the Local Number Portability Porting Interval and Validation Requirements First Report and Order and Further Notice of Proposed Rulemaking, released on May 13, 2009, the Commission reduced the porting interval for simple wireline and simple

intermodal port requests, requiring all entities subject to its local number portability (LNP) rules to complete simple wireline-to-wireline and simple intermodal port requests within one business day. In a related Further Notice of Proposed Rulemaking (FNPRM), the Commission sought comment on what further steps, if any, the Commission should take to improve the process of changing providers.

Timetable:

Action	Date	FR Cite
NPRM	02/21/08	73 FR 9507
R&O and FNPRM	07/02/09	74 FR 31630
R&O	06/22/10	75 FR 35305
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Melissa Kirkel, Attorney–Advisor, WCB, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554
Phone: 202 418–7958
Fax: 202 418–1413
Email: melissa.kirkel@fcc.gov

RIN: 3060–AJ32

[FR Doc. 2010–30463 Filed 12–17–10; 8:45 am]

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Federal Register

Monday,
December 20, 2010

Part XX

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is hereby publishing items for the Fall 2010 Unified Agenda of Federal Regulatory and Deregulatory Actions. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the Agenda. Unless otherwise noted, the address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

Risk-Based Capital Standards: Market Risk: The OCC, Board and the FDIC proposed revisions to the market risk capital rule to enhance its risk sensitivity and introduce requirements for public disclosure of certain qualitative and quantitative information about the market risk of a bank or bank holding company. The Office of Thrift Supervision (OTS) currently does not apply a market risk capital rule to savings associations and is proposing in this notice a market risk capital rule for savings associations. The proposed rules for each agency are substantively identical.

Deposit Insurance Regulations; Revocable Trust Accounts: The FDIC adopted this rule to simplify and modernize its deposit insurance rules for revocable trust accounts. The FDIC's main goal in implementing these revisions is to make the rules easier to understand and apply, without decreasing coverage currently available for revocable trust account owners. The FDIC believes that the rule will result in faster deposit insurance determinations after depository institution closings and will help improve public confidence in the banking system. The rule eliminates the concept of qualifying beneficiaries. Also, for account owners with revocable trust accounts totaling no more than $500,000, coverage will be determined without regard to the beneficial interest of each beneficiary in the trust.

Under the new rule, a trust account owner with up to five different beneficiaries named in all his or her revocable trust accounts at one FDIC-insured institution will be insured up to $100,000 per beneficiary. Revocable trust account owners with more than $500,000 and more than five different beneficiaries named in the trust(s) will be insured for the greater of either: $500,000 or the aggregate amount of all the beneficiaries' interests in the trust(s), limited to $100,000 per beneficiary.

Guidelines for Furnishers of Information to Consumer Reporting Agencies: The OCC, Board, FDIC, OTS, NCUA, and FTC (collectively, the Agencies) request comment to gather information that would assist the Agencies in considering the development of a possible proposed addition to the furnisher accuracy and integrity guidelines which, along with the accompanying regulations, implement the accuracy and integrity provisions in section 312 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) that amended section 623 of the Fair Credit Reporting Act (FCRA). This advance notice of proposed rulemaking (ANPRM) seeks to obtain information that would assist the Agencies in determining whether it would be appropriate to propose an addition to one of the guidelines that would delineate the circumstances under which a furnisher would be expected to provide an account opening date to a consumer reporting agency to promote the integrity of the information. In addition, the Agencies request comment more broadly on whether furnishers should be expected to provide any other types of information to a consumer reporting agency in order to promote integrity.

Community Reinvestment Act Regulations: The OCC, the Board, the FDIC, and the OTS (collectively, the Agencies) issued this notice of proposed rulemaking that would revise our rules implementing the Community Reinvestment Act (CRA). The proposed rule would incorporate into our rules recently adopted statutory language that requires the Agencies, when assessing an institution's record of meeting community credit needs, to consider, as a factor, low-cost education loans provided by the financial institution to low-income borrowers. The proposal also would incorporate into our rules statutory language that allows the Agencies, when assessing an institution's record, to consider as a factor capital investment, loan participation, and other ventures undertaken by non minority-owned and nonwomen-owned financial institutions in cooperation with minority- and women-owned financial institutions and low-income credit unions.

Defining Safe Harbor Protection for Treatment by the FDIC as Conservator or Receiver of Financial Assets Transferred by an Insured Depository Institution: The Federal Deposit Insurance Corporation (FDIC) is amending its regulation codified at 12 CFR section 360.6, Defining Safe Harbor Protection for Treatment By The Federal Deposit Insurance Corporation As Conservator Or Receiver Of Financial Assets Transferred In Connection With A Securitization Or Participation. The amendment adds a new subparagraph (b)(2) in order to continue for a limited time the safe harbor provision of section 360.6(b) for participations or securitizations that would be affected by recent changes to generally accepted accounting principles. In effect, the Rule ''grandfathers'' all participations and securitizations for which financial assets were transferred or, for revolving securitization trusts, for which securities were issued prior to March 31, 2010 so long as those participations or securitizations complied with the preexisting section 360.6 under generally accepted accounting principles in effect prior to November 15, 2009. The transitional safe harbor will apply irrespective of whether or not the participation or securitization satisfies all of the conditions for sale accounting treatment under generally accepted accounting principles as

FDIC

effective for reporting periods after November 15, 2009.

Incorporating Executive Compensation Criteria Into the Risk Assessment System: The FDIC is seeking comment on ways that the FDIC's risk-based deposit insurance assessment system (risk-based assessment system) could be changed to account for the risks posed by certain employee compensation programs. Section 7 of the Federal Deposit Insurance Act (FDI Act, 12 U.S.C. 1817) sets forth the risk-based assessment authorities underlying the FDIC's deposit insurance system, and the parameters of the FDIC's rules are set forth at 12 CFR part 327.

Assessments: The FDIC proposes to amend 12 CFR part 327 to revise the assessment system applicable to large institutions to better differentiate institutions by taking a more forward-looking view of risk; to better take into account the losses that the FDIC will incur if an institution fails; to revise the initial base assessment rates for all insured depository institutions; and to make technical and other changes to the rules governing the risk-based assessment system.

Special Reporting, Analysis and Contingent Resolution Plans at Certain Large Insured Depository Institutions: The FDIC is seeking comment on a proposed rule that would require certain identified insured depository institutions (IDIs) that are subsidiaries of large and complex financial parent companies to submit to the FDIC analysis, information, and contingent resolution plans that address and demonstrate the IDl's ability to be separated from its parent structure, and to be wound down or resolved in an orderly fashion. The IDI's plan would include a gap analysis that would identify impediments to the orderly stand-alone resolution of the IDI, and identify reasonable steps that are or will be taken to eliminate or mitigate such impediments. The contingent resolution plan, gap analysis, and mitigation efforts are intended to enable the FDIC to develop a reasonable strategy, plan or options for the orderly resolution of the institution. The proposal would apply only to IDls with greater than $10 billion in total assets that are owned or controlled by parent companies with more than $100 billion in total assets.

Alternatives to the Use of Credit Ratings in the Risk-Based Capital Guidelines of the Federal Banking Agencies: The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act), enacted on July 21, 2010, requires Federal agencies to review their regulations that (1) require an assessment of the credit-worthiness of a security or money market instrument and (2) contain references to or requirements regarding credit ratings. In addition, the agencies are required to remove such requirements that refer to or rely upon credit ratings, and to substitute in their place uniform standards of credit-worthiness. The Advanced Notice of Proposed Rulemaking seeks comment on alternative standards of credit-worthiness that may be used for risk-based capital requirements.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

Federal Deposit Insurance Corporation—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
603	12 CFR 325 Alternatives to the Use of Credit Ratings in the Risk-Based Capital Guidelines of the Federal Banking Agencies	3064–AD62

Federal Deposit Insurance Corporation (FDIC) — Long-Term Actions

603. • ALTERNATIVES TO THE USE OF CREDIT RATINGS IN THE RISK–BASED CAPITAL GUIDELINES OF THE FEDERAL BANKING AGENCIES

Legal Authority: Dodd–Frank Wall Street Reform and Consumer Protection Act

Abstract: The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act), enacted on July 21, 2010, requires Federal agencies to review their regulations that (1) require an assessment of the credit-worthiness of a security or money market instrument and (2) contain references to or requirements regarding credit ratings. In addition, the agencies are required to remove such requirements that refer to or rely upon credit ratings, and to substitute in their place uniform standards of credit-worthiness. The ANPRM seeks comment on alternative standards of credit-worthiness that may be used for risk-based capital requirements.

Timetable:

Action	Date	FR Cite
ANPRM	08/25/10	75 FR 52283
ANPRM Comment Period End	10/25/10	
Next Action Undetermined		

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Michael Phillips, Counsel, Legal Division, Federal Deposit Insurance Corporation, Washington, DC 20429
Phone: 202 898–3581

RIN: 3064–AD62

[FR Doc. 2010–30465 Filed 12–17–10; 8:45 am]

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Federal Register

Monday,
December 20, 2010

Part XXI

Federal Reserve System

Semiannual Regulatory Agenda

FEDERAL RESERVE SYSTEM (FRS)

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period November 1, 2010, through April 30, 2011. The next agenda will be published in spring 2011.

DATES: Comments about the form or content of the agenda may be submitted any time during the next six months.

ADDRESS: Comments should be addressed to Jennifer J. Johnson, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its fall 2010 agenda as part of the Fall 2010 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda also identifies rules the Board has selected for review under section 610(c) of the Regulatory Flexibility Act, and public comment is invited on those entries. The complete Unified Agenda will be available to the public at the following web site: www.reginfo.gov.

Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next six months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. And a third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further. Matters begun and completed between issues of the agenda have not been included.

A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous agenda and which the Board has not completed.

Margaret McCloskey Shanks,

Associate Secretary of the Board.

Federal Reserve System—Completed Actions

Sequence Number	Title	Regulation Identifier Number
604	Regulation Z—Truth in Lending Act (Docket Number: R-1366)	7100–AD33
605	Regulation Z—Truth in Lending Act (Docket No: R-1370)	7100–AD42
606	Regulation Z—Truth in Lending (Docket No. R-1384)	7100–AD49

Federal Reserve System (FRS) — Completed Actions

604. REGULATION Z—TRUTH IN LENDING ACT (DOCKET NUMBER: R–1366)

Legal Authority: 15 USC 1601 et seq

Abstract: In August 2009 the Board issued a proposed rule amending Regulation Z's disclosures for closed-end mortgages. The proposed rule would make comprehensive changes to the disclosures consumers receive before and after application for a closed-end mortgage loan. The proposed disclosures included, among other things, disclosures of information about interest rates and payment changes in the form of a table. This disclosure would implement changes to the Truth in Lending Act made by the Mortgage Disclosure Improvement Act (the MDIA). The Board also proposed to prohibit certain payments to mortgage loan originators (mortgage brokers and loan officers) that are based on the loan's terms or conditions, and prohibit steering consumers to transactions that are not in their interest to increase compensation received.

In August 2010, the Board finalized two elements of the August 2009 proposed rule. First, the Board issued an interim final rule requiring creditors to disclose certain summary information about interest rates and payment changes in the form of a table for closed-end mortgage loans secured by a real property or dwelling. The Board took this action to ensure that the creditors have guidance on how to make the interest rate and payment disclosure required by MDIA before the statutory effective date of January 30, 2011. The Board's interim final rule adopts the August 2009 proposed rule regarding the interest rate and payment summary tables substantially as proposed. Public comments on the interim final rule are due 60 days after publication in the Federal Register.

Second, the Board adopted the proposed rule regarding originator compensation, substantially as proposed. The final rule also prohibits payments to mortgage originators that are based on the loan's terms or conditions. The final rule also prohibits a mortgage originator from steering consumers to transactions that are not in their interest to increase the originator's compensation. The final rule applies to closed-end mortgage loans secured by a dwelling, and is substantially similar to the proposed rule.

Timetable:

Action	Date	FR Cite
Board Requested Comment	08/26/09	74 FR 43232

Action	Date	FR Cite
Board Adopted Final Rule	09/24/10	75 FR 58509
Final Rule Effective	04/01/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Kathleen Ryan, Counsel, Federal Reserve System, Division of Consumer and Community Affairs
Phone: 202 452–3667

RIN: 7100–AD33

605. ● REGULATION Z—TRUTH IN LENDING ACT (DOCKET NO: R–1370)

Legal Authority: 12 USC 1601 et seq

Abstract: On May 22, 2009, the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit Card Act) was signed into law. Public Law No. 111-24, 123 Stat. 1734 (2009). The Credit Card Act primarily amended the Truth in Lending Act (TILA) and created a number of new substantive protections and disclosure requirements for open-end (revolving) consumer credit plans. The provisions of the Credit Card Act that the Board was required to implement under TILA became effective in three stages: August 20, 2009; February 22, 2010; and August 22, 2010. On July 15, 2009, the Board issued an interim final rule amending Regulation Z (Truth in Lending), to implement provisions of the Credit Card Act that became effective on August 20, 2009, 74 FR 36077 (July 22, 2009)(Docket No. R-1364). In October 2009, the Board published a proposed rule amending Regulation Z (Truth in Lending) to finalize the July 2009 interim final rule and implement additional provisions of the Credit Card Act that became effective on February 22, 2010, 74 FR 54124. In January 2010, the Board issued a final rule based on the October 2009 proposal (75 FR 7658).

Timetable:

Action	Date	FR Cite
Board Issued Final Rule on	02/22/10	75 FR 7658

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Amy Henderson, Senior Attorney, Federal Reserve System
Phone: 202 452–3667

RIN: 7100–AD42

606. ● REGULATION Z—TRUTH IN LENDING (DOCKET NO. R–1384)

Legal Authority: 15 USC 1601 et seq

Abstract: The Board proposes to amend Regulation Z, which implements the Truth in Lending Act, and the staff commentary to the regulation in order to implement provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009 that goes into effect on August 22, 2010. In particular, the proposed rule would require that penalty fees imposed by card issuers be reasonable and proportional to the violation of the account terms. The proposed rule would also require credit card issuers to reevaluate at least every six months the annual percentage rates increased on or after January 1, 2009.

On March 15, 2010, the Board published proposed amendments to Regulation Z (Truth in Lending) in order to implement provisions of the Credit Card Accountability Responsibility and Disclosure Act that went into effect on August 22, 1010 (75 FR 12334). The proposed rule would have required that penalty fees imposed by card issuers be reasonable and proportional to the violation of the account terms. The proposed rule also would have required credit card issuers to reevaluate at least every six months annual percentage rates increased on or after January 1, 2009. On June 29, 2010, the Board published final rules finalizing the March 2010 proposal (75 FR 37526).

Timetable:

Action	Date	FR Cite
Board Issued Final Rule on	06/29/10	75 FR 37526

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Amy Henderson, Senior Attorney, Federal Reserve System
Phone: 202 452–3667

RIN: 7100–AD49

[FR Doc. 2010–30471 Filed 12–17–10; 8:45 am]

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Federal Register

Monday,
December 20, 2010

Part XXII

Federal Trade Commission

Semiannual Regulatory Agenda

FEDERAL TRADE COMMISSION (FTC)

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), and the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 to 612, as amended by the Small Business Regulatory Enforcement Fairness Act. The Commission's agenda follows guidelines and procedures issued July 23, 2010, by the Office of Management and Budget in accordance with the provisions of Executive Order No. 12866 ''Regulatory Planning and Review'' of September 30, 1993, 58 FR 51735 (Oct. 4, 1993).

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** that includes the Unified Agenda. The Commission's Statement of Regulatory Priorities is included in the Plan. The Commission has no proposed rules that would be a ''significant regulatory action'' under the definition in Executive Order 12866.

Beginning with the fall 2007 edition, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at www.reginfo.gov, in a format that offers users a greatly enhanced ability to obtain information from the Agenda database. Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the RFA (5 U.S.C. 602), the Commission's printed agenda entries include only: rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years, including the Federal Trade Commission's regulatory plan.

The Commission has one rulemaking that is in the Agency's regulatory flexibility agenda, the recently issued amendments to the Telemarketing Sales Rule, 16 C.F.R. 310, which relate to the provision of debt relief services to consumers. This rule is likely to have a significant impact on a substantial number of small entities.

The Commission's agenda also references the Web site www.regulations.gov where appropriate. This is the Governmentwide Web site where members of the public can find, review, and submit comments on Federal rulemakings that are open for comment and published in the **Federal Register**.

The Commission has responded to the optional information requirement to identify rulemakings that are likely to have some impact on small entities but are not subject to the requirements of the RFA. The current rulemakings that are likely to have some impact on small entities but are not subject to the requirements of the RFA are: (1) the Automotive Fuel Ratings, Certification, and Posting Rule, 16 CFR 306; (2) the Pay-Per-Call Rule (or ''the 1-900 Rule''), 16 CFR 308; (3) the Appliance Labeling Rule, 16 CFR 305, (4) Labeling Requirements for Alternative Fuels and Alternative-Fueled Vehicles, 16 CFR 309; (5) Children's Online Privacy Protection Rule, 16 CFR 312; (6) the Rulemakings with Respect to Mortgage Loans, to be codified at 16 CFR 321, 322; (7) Retail Food Store Advertising and Marketing Practices, 16 CFR 424; (8) the Negative Option Rule, 16 CFR 425; (9) the Cooling-Off Rule, 16 CFR 429; (10) the Amplifier Rule, 16 CFR 432; (11) the Holder-in-Due Course Rule, 16 CFR 433; (12) Mail or Telephone Order Merchandise Rule, 16 CFR 435; (13) the Business Opportunity Rule, to be codified at 16 CFR 437; (14) the Used Car Rule, 16 CFR 455; and (15) certain rules implementing the Fair and Accurate Credit Transactions Act of 2003 (FACTA), 16 CFR 602, 603, 604, 610, 611, 613, 614, 641, 642, 660, 680, 681, 682, and 698.

In addition, the Agency has responded to the optional information question that corresponds to Executive Order 13132, ''Federalism,'' of August 4, 1999, 64 FR 43255 (Aug. 10, 1999), which does not apply to independent regulatory agencies. The Commission believes to the extent that any of the rules in this agenda may have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government'' within the meaning of E.O. 13132, it has consulted with the affected entities. The Commission continues to work closely with the States and other governmental units in its rulemaking process, which explicitly considers the effect of the Agency's rules on these governmental entities.

Some of the rulemakings listed in the agenda are being conducted as part of the Commission's plan to review and seek information every 10 years about all of its regulations and guides, including their costs and benefits and regulatory and economic impact. These reviews incorporate and expand upon the review required by the RFA and regulatory reform initiatives directing agencies to conduct a review of all regulations and eliminate or revise those that are outdated or otherwise in need of reform.

Except for notice of completed actions, the information in this agenda represents the judgment of Commission staff, based upon information now available. Each projected date of action reflects an assessment by the FTC staff of the likelihood that the specified event will occur during the coming year. No final determination by the staff or the Commission respecting the need for, or the substance of, a trade regulation rule or any other procedural option should be inferred from the notation of projected events in this agenda. In most instances, the dates of future events are listed by month, not by a specific day. The acquisition of new information, changes of circumstances, or changes in the law may alter this information.

FOR FURTHER INFORMATION CONTACT: For information about specific regulatory actions listed in the agenda, call, e-mail, or write the contact person listed for each particular proceeding. General comments or questions about the agenda should be directed to G. Richard Gold,

FTC

Attorney, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580, telephone: (202) 326-3355; e-mail: rgold@ftc.gov.

By direction of the Commission.

Donald S. Clark,

Secretary.

Federal Trade Commission—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
607	Telemarketing Sales Rule	3084–AB19

Federal Trade Commission (FTC) — Prerule Stage

607. TELEMARKETING SALES RULE

Legal Authority: 15 USC 6101 to 6108; 15 USC 41 to 58

Abstract: The Federal Trade Commission proposes to amend the FTC's Telemarketing Sales Rule (TSR or Rule) to address the sale of debt relief services (74 FR 41988). The Commission seeks public comment on the proposed amendments, which would: define the term ''debt relief service;'' ensure that, regardless of the medium through which such services are initially advertised, telemarketing transactions involving debt relief services would be subject to the TSR; mandate certain disclosures and prohibit misrepresentations in the telemarketing of debt relief services; and prohibit any entity from requesting or receiving payment for debt relief services until such services have been fully performed and documented to the consumer. The comment period, as extended, closed on October 26, 2009. The Commission received hundreds of comments from the public. The Commission held a public forum on November 4, 2009, where Commission staff and interested parties discussed the proposed amendments and issues raised in the comments. On July 29, 2010, the Commission announced rule amendments defining debt relief services, prohibiting debt relief providers from collecting fees until services have been provided, and requiring specific disclosures related to fundamental aspects of debt relief services (75 FR 48458). The rule also extends the TSR's coverage to inbound calls and prohibits misrepresentations related to success rates and non-profit status. With the exception of the advance fee ban, the rule's provisions were effective September 27, 2010.

On October 27, 2010, the Commission announced an enforcement policy for the TSR Debt Relief Services Rule: The Commission will defer enforcement of the new rule for tax debt relief services until further notice. The enforcement policy states, however, that tax debt relief services must comply with the other portions of the FTC's Telemarketing Sales Rule during the enforcement deferral period. Companies that sell other kinds of debt relief services over the telephone continue to be subject to enforcement of the TSR Debt Relief Service Rule, including the prohibition against charging fees before settling or reducing a consumer's credit car or other unsecured debt.

Separately, Commission staff are considering proposed amendments to the TSR concerning caller identification services and disclosure of the identity of the seller or telemarketer responsible for telemarketing calls. Staff anticipates that the Commission will issue an advance notice of proposed rulemaking during the first quarter of 2011.

Commission staff are also considering possible amendments to the TSR that would provide new or strengthen existing anti-fraud provisions, as well as make explicit certain other requirements in the TSR. Staff anticipates that the Commission will issue an advance notice of proposed rulemaking during the first quarter of 2011.

Timetable:

Action	Date	FR Cite
NPRM	08/19/09	74 FR 41988
NPRM Comment Period End	10/09/09	
NPRM Comment Period Extended	10/15/09	74 FR 52914
NPRM Extended Comment Period End	10/26/09	
Public Forum	11/04/09	
Final Rule	08/10/10	75 FR 48458
Technical Correction to Final Rule	08/24/10	75 FR 51934
Effective Date	09/27/10	
Effective Date (Advance Fee Ban)	10/27/10	
ANPRM (Caller ID)	03/00/11	
NPRM (Anti–fraud)	08/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Allison Brown, Attorney, Federal Trade Commission, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW, Washington, DC 20580
Phone: 202 326–3079
Email: aibrown@ftc.gov

RIN: 3084–AB19

[FR Doc. 2010–30466 Filed 12–17–10; 8:45 am]

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Federal Register

Monday,
December 20, 2010

Part XXIII

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

NUCLEAR REGULATORY COMMISSION (NRC)

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual regulatory agenda in accordance with Public Law 96-354, ''The Regulatory Flexibility Act,'' and Executive Order 12866, ''Regulatory Planning and Review.'' The agenda is a compilation of all rules on which the NRC has recently completed action or has proposed or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual agenda on April 26, 2010 (75 FR 21960).

For this edition of the NRC's regulatory agenda, the most important significant regulatory actions and a Statement of Regulatory Priorities are included in The Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** that includes the Unified Agenda.

ADDRESSES: Comments on any rule in the agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. Comments may also be hand delivered to the One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the agenda. Public comments on NRC's published rulemaking actions are available on the Federal rulemaking website at http://www.regulations.gov.

The agenda and any comments received on any rule listed in the agenda are available for public inspection and copying for a fee at the Nuclear Regulatory Commission's Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1F21, Rockville, Maryland.

The complete Unified Agenda will be available online at www.reginfo.gov, in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this agenda, contact: Cindy Bladey, Chief, Rules, Announcements and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-492-3667 (e-mail: Cindy.Bladey@nrc.gov). Persons outside the Washington, DC, metropolitan area may call, toll-free: 1-800-368-5642. For further information on the substantive content of any rule listed in the agenda, contact the individual listed under the heading ''Agency Contact'' for that rule.

SUPPLEMENTARY INFORMATION: The information contained in this semiannual publication is updated to reflect any action that has occurred on rules since publication of the last NRC semiannual agenda on April 26, 2010 (75 FR 21960). Within each group, the rules are ordered according to the Regulation Identifier Number (RIN).

The information in this agenda has been updated through September 10, 2010. The date for the next scheduled action under the heading ''Timetable'' is the date the rule is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. The agenda is intended to provide the public early notice and opportunity to participate in the NRC rulemaking process. However, the NRC may consider or act on any rulemaking even though it is not included in the agenda.

The NRC agenda lists all open rulemaking actions. Three rules affect small entities.

Dated at Rockville, Maryland, this 10th day of September 2010.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Rules, Announcements, and Directives Branch,

Division of Administrative Services, Office of Administration.

Nuclear Regulatory Commission—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
608	Distribution of Source Material To Exempt Persons and General Licensees and Revision of 10 CFR 40.22 General License [NRC-2009-0084]	3150–AH15
609	Controlling the Disposition of Solid Materials [NRC-1999-0002]	3150–AH18

Nuclear Regulatory Commission—Completed Actions

Sequence Number	Title	Regulation Identifier Number
610	Revision of Fee Schedules; Fee Recovery for FY 2010 [NRC-2009-0333]	3150–AI70

Nuclear Regulatory Commission (NRC) — Long-Term Actions

608. DISTRIBUTION OF SOURCE MATERIAL TO EXEMPT PERSONS AND GENERAL LICENSEES AND REVISION OF 10 CFR 40.22 GENERAL LICENSE [NRC–2009–0084]

Legal Authority: 42 USC 2201; 42 USC 5841

Abstract: The proposed rule would amend the Commission's regulations to improve the control over the distribution of source material to exempt persons and to general licensees in order to make part 40 more risk-informed. The proposed rule also would govern the licensing of source material by adding specific requirements for licensing of and reporting by distributors of products and materials used by exempt persons and general licensees. Source material is used under general license and under various exemptions from licensing requirements in part 40 for which there is no regulatory mechanism for the Commission to obtain information to fully assess the resultant risks to public health and safety. Although estimates of resultant doses have been made, there is a need for ongoing information on the quantities and types of radioactive material distributed for exempt use and use under general license. Obtaining information on the distribution of source material is particularly difficult because many of the distributors of source material to exempt persons and generally licensed persons are not currently required to hold a license from the Commission. Distributors are often unknown to the Commission. No controls are in place to ensure that products and materials distributed are maintained within the applicable constraints of the exemptions. In addition, the amounts of source material allowed under the general license in section 40.22 could result in exposures above 1 mSv/year (100 mrem/year) to workers at facilities that are not required to meet the requirements of parts 19 and 20. Without knowledge of the identity and location of the general licensees, it would be difficult to enforce restrictions on the general licensees. This rule also would address PRM-40-27 submitted by the State of Colorado and Organization of Agreement States.

Timetable:

Action	Date	FR Cite
NPRM	07/26/10	75 FR 43425
NPRM Comment Period End	11/23/10	
Final Rule	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Gary C. Comfort, Jr., Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001
Phone: 301 415–8106
Email: gary.comfort@nrc.gov

RIN: 3150–AH15

609. CONTROLLING THE DISPOSITION OF SOLID MATERIALS [NRC–1999–0002]

Legal Authority: 42 USC 2201; 42 USC 5841

Abstract: The staff provided a draft proposed rule package on Controlling the Disposition of Solid Materials to the Commission on March 31, 2005, which the Commission disapproved. The Commission's decision was based on the fact that the Agency is currently faced with several high priority and complex tasks, that the current approach to review specific cases on an individual basis is fully protective of public health and safety, and that the immediate need for this rule has changed due to the shift in timing for reactor decommissioning. The Commission has deferred action on this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Kimyata Morgan Butler, Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Washington, DC 20555–0001
Phone: 301 415–0733
Email: kimyata.morganbutler@nrc.gov

RIN: 3150–AH18

Nuclear Regulatory Commission (NRC) — Completed Actions

610. REVISION OF FEE SCHEDULES; FEE RECOVERY FOR FY 2010 [NRC–2009–0333]

Legal Authority: 42 USC 2201; 42 USC 5841

Abstract: The final rule amends the Commission's licensing, inspection, and annual fees charged to U.S. Nuclear Regulatory Commission (NRC) licensees and applicants for an NRC license. The rulemaking is necessary to recover, through the assessment of fees, approximately 90 percent of the NRC's budget authority for fiscal year (FY) 2010, less the amounts appropriated from the Nuclear Waste Fund, amounts appropriated for Waste Incidental to Reprocessing, and amounts appropriated for generic homeland security activities, as required by the Omnibus Budget Reconciliation Act of 1990 (OBRA-90), as amended.

Based on the Energy and Water Development and Related Agencies Appropriation Act, 2010, the NRC's required fee recovery amount for the FY 2010 budget is approximately $912.2 million. After accounting for billing adjustments (i.e., expected unpaid invoices, payments for prior year invoices), the total amount to be billed as fees is $911.1 million. The OBRA-90, as amended, requires that the fees for FY 2010 be collected by September 30, 2010.

Completed:

Reason	Date	FR Cite
Final Action	06/16/10	75 FR 34210
Final Rule Effective	08/16/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Renu Suri
Phone: 301 415–0161
Email: renu.suri@nrc.gov

RIN: 3150–AI70

[FR Doc. 2010–30468 Filed 12–17–10; 8:45 am]

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Federal Register

Monday,
December 20, 2010

Part XXIV

Securities and Exchange Commission

Semiannual Regulatory Agenda

SECURITIES AND EXCHANGE COMMISSION (SEC)

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33-9141, 34-62881, IA-3081, IC-29414, File No. S7-21-10]

Regulatory Flexibility Agenda

AGENCY: Securities and Exchange Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Securities and Exchange Commission is publishing an agenda of its rulemaking actions pursuant to the Regulatory Flexibility Act (RFA) (Pub. L. No. 96-354, 94 Stat. 1164) (Sep. 19, 1980). Information in the agenda was accurate on September 10, 2010, the day on which the Commission's staff completed compilation of the data. To the extent possible, rulemaking actions by the Commission since that date have been reflected in the agenda. The Commission invites questions and public comment on the agenda and on the individual agenda entries.

The Commission is now printing in the **Federal Register**, along with our preamble, only those agenda entries for which we have indicated that preparation of a Regulatory Flexibility Act analysis is required.

The Commission's complete RFA agenda will be available online at www.reginfo.gov.

DATES: Comments should be received on or before December 30, 2010.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/other.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number S7-21-10 on the subject line; or
- Use the Federal eRulemaking Portal (http://www.regulations.gov). Follow the instructions for submitting comments.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File No. S7-21-10. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (http://www.sec.gov/rules/other.shtml). Comments are also available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Anne Sullivan, Office of the General Counsel, 202-551-5019.

SUPPLEMENTARY INFORMATION: The RFA requires each Federal agency, during April and October of each year, to publish in the **Federal Register** an agenda identifying rules that the agency expects to consider in the next 12 months that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602(a)). The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda and that an agency is not required to consider or act on any matter that is included in the agenda (5 U.S.C. 602(d)). Actions that do not have an estimated date are placed in the long-term category; the Commission may nevertheless act on items in that category within the next 12 months. The agenda includes new entries, entries carried over from prior publications, and rulemaking actions that have been completed (or withdrawn) since publication of the last agenda.

The following abbreviations for the acts administered by the Commission are used in the agenda:

''Securities Act''—Securities Act of 1933

''Exchange Act''—Securities Exchange Act of 1934

''Investment Company Act''—Investment Company Act of 1940

''Investment Advisers Act''—Investment Advisers Act of 1940

The Commission invites public comment on the agenda and on the individual agenda entries.

By the Commission.

Dated: September 10, 2010.

Elizabeth M. Murphy,

Secretary.

DIVISION OF CORPORATION FINANCE—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
611	Voluntary Filers	3235–AK59
612	Risk Disclosures	3235–AK58

DIVISION OF CORPORATION FINANCE—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
613	Proxy Solicitation Enhancements	3235–AK28

SEC

DIVISION OF CORPORATION FINANCE—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
614	Shareholder Approval of Executive Compensation and Golden Parachute Compensation	3235–AK68

DIVISION OF CORPORATION FINANCE—Completed Actions

Sequence Number	Title	Regulation Identifier Number
615	Facilitating Shareholder Director Nominations	3235–AK27
616	Revisions to Regulation D	3235–AK52

DIVISION OF INVESTMENT MANAGEMENT—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
617	Temporary Rule Regarding Principal Trades With Certain Advisory Clients	3235–AJ96

DIVISION OF INVESTMENT MANAGEMENT—Completed Actions

Sequence Number	Title	Regulation Identifier Number
618	Amendments to Form ADV	3235–AI17
619	Political Contributions by Certain Investment Advisers	3235–AK39
620	Indexed Annuities and Certain Other Insurance Contracts	3235–AK49

DIVISION OF TRADING AND MARKETS—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
621	Amendments to Rule 17a-5	3235–AK56
622	Publication or Submission of Quotations Without Specified Information	3235–AH40

DIVISION OF TRADING AND MARKETS—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
623	Transitional Registration as a Municipal Advisor	3235–AK69
624	Consolidated Audit Trail	3235–AK51
625	Proposed Rules for Nationally Recognized Statistical Rating Organizations	3235–AK14

DIVISION OF TRADING AND MARKETS—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
626	Confirmation of Transactions in Open-End Management Investment Company Shares, Unit Investment Trust Interests, and Municipal Fund Securities Used for Education Savings	3235–AJ11
627	Point-of-Sale Disclosure of Purchases in Open-End Management Investment Company Shares, Unit Investment Trust Interests, and Municipal Fund Securities Used for Education Savings	3235–AJ12
628	Rule 15c-100: Schedule 15C	3235–AJ13

SEC

DIVISION OF TRADING AND MARKETS—Long-Term Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
629	Rule 15c-101: Schedule 15D	3235–AJ14
630	Processing of Reorganization Events, Tender Offers, and Exchange Offers	3235–AH53

DIVISION OF TRADING AND MARKETS—Completed Actions

Sequence Number	Title	Regulation Identifier Number
631	Amendment to Municipal Securities Disclosure	3235–AJ66

Securities and Exchange Commission (SEC) — Proposed Rule Stage
Division of Corporation Finance

611. VOLUNTARY FILERS

Legal Authority: Not Yet Determined

Abstract: The Division is considering recommending that the Commission propose amendments to require registrants who do not have a filing obligation under the Exchange Act to file any reports with the Commission in compliance with Commission rules.

Timetable:

Action	Date	FR Cite
NPRM	09/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Sean Harrison, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549 Phone: 202 551–3430

RIN: 3235–AK59

612. RISK DISCLOSURES

Legal Authority: Not Yet Determined

Abstract: The Division is considering recommending that the Commission propose amendments to its rules and forms to consolidate and enhance the risk disclosures provided by registrants.

Timetable:

Action	Date	FR Cite
NPRM	07/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jennifer Zepralka, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549 Phone: 202 551–3430

RIN: 3235–AK58

Securities and Exchange Commission (SEC) — Final Rule Stage
Division of Corporation Finance

613. PROXY SOLICITATION ENHANCEMENTS

Legal Authority: 15 USC 78n

Abstract: The Commission adopted amendments in December 2009 to enhance proxy disclosures. In the proposing release for those rules, the Commission also proposed further amendments to its proxy rules to clarify the manner in which they operate and address issues that have arisen in the proxy solicitation process. The Division is considering recommending that the Commission adopt amendments relating to the outstanding proposals.

Timetable:

Action	Date	FR Cite
NPRM	07/17/09	74 FR 35076
NPRM Comment Period End	09/15/09	
Final Action	12/23/09	74 FR 68334
Final Action Effective	02/28/10	
Final Action	11/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Mark W. Green, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–0301
Phone: 202 551–3440
Email: greenm@sec.gov

RIN: 3235–AK28

614. ● SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION AND GOLDEN PARACHUTE COMPENSATION

Legal Authority: PL 111–203 sec 951; 15 USC 78c(b); 15 USC 78m; 15 USC 78n; 15 USC 78w(a); 15 USC 78mm

Abstract: The Commission proposed revisions to the proxy rules to implement section 951 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which requires issuers to conduct a separate shareholder advisory vote: (1) To approve the compensation of executives; (2) to determine how often they will conduct such votes; and (3) to approve golden parachute compensation arrangements when

SEC—Division of Corporation Finance — Final Rule Stage

issuers are soliciting votes to approve merger or acquisition transactions.

Timetable:

Action	Date	FR Cite
NPRM	10/28/10	75 FR 66590
NPRM Comment Period End	11/18/10	
Final Action	01/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Scott Hodgdon, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549 Phone: 202 551–3430

RIN: 3235–AK68

Securities and Exchange Commission (SEC) — Completed Actions
Division of Corporation Finance

615. FACILITATING SHAREHOLDER DIRECTOR NOMINATIONS

Legal Authority: 15 USC 78c(b); 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w(a); 15 USC 78mm; 15 USC 80a–10; 15 USC 80a–20(a); 15 USC 80a–37

Abstract: The Commission adopted amendments to the proxy and related rules to enable long-term shareholders with significant holdings to include nominees to the board of directors in company proxy materials.

Timetable:

Action	Date	FR Cite
NPRM	06/18/09	74 FR 29024
NPRM Comment Period End	08/17/09	
Comment Period Extended	12/18/09	74 FR 67145
Comment Period End	02/16/10	
Final Action	09/16/10	75 FR 56668
Final Action Effective	11/15/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Lillian C. Brown, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549 Phone: 202 551–3430

RIN: 3235–AK27

616. REVISIONS TO REGULATION D

Legal Authority: 15 USC 77b(a)(15); 15 USC 77b(b); 15 USC 77d; 15 USC 77r; 15 USC 77s; 15 USC 77s(a); 15 USC 77z–3

Abstract: The Commission is withdrawing this rulemaking because the Dodd-Frank Wall Street Reform and Consumer Protection Act requires rulemaking in this area. The Division is considering recommending action to the Commission that complies with the statutory requirements.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Anthony G. Barone, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549 Phone: 202 551–3460

RIN: 3235–AK52

Securities and Exchange Commission (SEC) — Final Rule Stage
Division of Investment Management

617. TEMPORARY RULE REGARDING PRINCIPAL TRADES WITH CERTAIN ADVISORY CLIENTS

Legal Authority: 15 USC 80b–6a; 15 USC 80b–11(a)

Abstract: The Division is considering recommending that the Commission propose an amendment to extend the sunset date of Rule 206(3)-3T, a rule that provides investment advisers who are also registered broker-dealers an alternative means of compliance with the principal trading restrictions in Section 206(3) of the Investment Advisers Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/28/07	72 FR 55022
Interim Final Rule Effective	09/30/07	
Interim Final Rule Comment Period End	11/30/07	
Interim Final Rule Extension	12/30/09	74 FR 690009
Interim Final Rule Effective	12/30/09	
Interim Final Rule Extension	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Matthew Goldin, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549 Phone: 202 551–6726 Fax: 202 772–9284 Email: goldinm@sec.gov

RIN: 3235–AJ96

Securities and Exchange Commission (SEC) — Completed Actions
Division of Investment Management

618. AMENDMENTS TO FORM ADV

Legal Authority: 15 USC 80b–4, 80b–6(4), 80b–ll(a), 80b–3(c)(1); 15 USC 77s(a); 15 USC 78(wa), 78bb(e)(2); 15 USC 77sss(a); 15 USC 78a–37(a)

Abstract: The Commission adopted amendments to Form ADV part 2 to require registered investment advisers to deliver to clients and prospective

SEC—Division of Investment Management **Completed Actions**

clients a brochure written in plain English.

The amendments are designed to require advisers to provide clients and prospective clients with clear, current, and more meaningful disclosure of the business practices, conflicts of interest, and background of investment advisers and their advisory personnel. Advisers will file their brochures with the Commission electronically, and the brochures will be available to the public through the Commission's Web site.

Timetable:

Action	Date	FR Cite
NPRM	04/17/00	65 FR 20524
NPRM Comment Period End	06/03/00	
Second NPRM	03/14/08	73 FR 13958
Second NPRM Comment Period End	05/16/08	
Final Action	08/12/10	75 FR 49234
Final Action Effective	10/12/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Vivien Liu, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549
Phone: 202 551–6728
Email: liuy@sec.gov

RIN: 3235–AI17

619. POLITICAL CONTRIBUTIONS BY CERTAIN INVESTMENT ADVISERS

Legal Authority: 15 USC 80b–6(4); 15 USC 80b–11; 15 USC 80b–4

Abstract: The Commission adopted a new rule under the Investment Advisers Act that prohibits an investment adviser from providing advisory services for compensation to a government client for two years after the adviser or certain of its executives or employees make a contribution to certain elected officials or candidates.

Timetable:

Action	Date	FR Cite
NPRM	08/07/09	74 FR 39840
NPRM Comment Period End	10/06/09	
Final Action	07/14/10	75 FR 41018
Final Action Effective	09/13/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Melissa Roverts, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549
Phone: 202 551–6722
Fax: 202 772–2934
Email: rovertsm@sec.gov

RIN: 3235–AK39

620. INDEXED ANNUITIES AND CERTAIN OTHER INSURANCE CONTRACTS

Legal Authority: 15 USC 77c(a)(8); 15 USC 77s(a); 15 USC 78l(h); 15 USC 78o; 15 USC 78w(a); 15 USC 78mm

Abstract: On January 8, 2009, the Commission issued a release adopting Rule 151A under the Securities Act. Rule 151A defines the terms ''annuity contract'' and ''optional annuity contract'' under the Securities Act. The rule was intended to clarify the status under the federal securities laws of indexed annuities, under which payments to the purchaser are dependent on the performance of a securities index. On July 12, 2010, a Federal appeals court issued an order vacating rule 151A. The Commission issued a release withdrawing Rule 151A.

Timetable:

Action	Date	FR Cite
Withdrawn	10/01/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Michael Kosoff, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549
Phone: 202 551–6754
Fax: 202 772–9285
Email: kosoffm@sec.gov

RIN: 3235–AK49

Securities and Exchange Commission (SEC) Division of Trading and Markets — Proposed Rule Stage

621. AMENDMENTS TO RULE 17A–5

Legal Authority: 15 USC 78q

Abstract: The Division is considering recommending that the Commission propose amendments to Rule 17a-5 dealing with, among other things, broker-dealer custody of assets.

Timetable:

Action	Date	FR Cite
NPRM	12/00/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Rebekah Goshorn, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549
Phone: 202 551–5514
Fax: 202 772–9333
Email: goshornr@sec.gov

RIN: 3235–AK56

622. PUBLICATION OR SUBMISSION OF QUOTATIONS WITHOUT SPECIFIED INFORMATION

Legal Authority: 15 USC 78c; 15 USC 78j(b); 15 USC 78o(c); 15 USC 78o(g); 15 USC 78q(a); 15 USC 78w(a)

Abstract: As part of its efforts to respond to fraud and manipulation in the microcap securities market, the Commission proposed amendments to Rule 15c2-11. These amendments would limit the rule's piggyback provision and increase public availability of issuer information. The amendments would expand the information review requirements for non-reporting issuers and the documentation required for significant relationships between the broker-dealer and the issuer of the security to be quoted. Finally, the amendments would exclude from the rule securities of larger, more liquid issuers.

Timetable:

Action	Date	FR Cite
NPRM	02/25/98	63 FR 9661
NPRM Comment Period End	04/27/98	
Second NPRM	03/08/99	64 FR 11124
Second NPRM Comment Period End	04/07/99	

SEC—Division of Trading and Markets — Proposed Rule Stage

Action	Date	FR Cite
Second NPRM Comment Period Extended	04/14/99	64 FR 18393
Comment Period End	05/08/99	
Third NPRM	09/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Victoria L. Crane, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549
Phone: 202 551–5744
Fax: 202 772–9355
Email: cranev@sec.gov

RIN: 3235–AH40

Securities and Exchange Commission (SEC) Division of Trading and Markets — Final Rule Stage

623. ● TRANSITIONAL REGISTRATION AS A MUNICIPAL ADVISOR

Legal Authority: PL 111–203, sec 975

Abstract: The Commission adopted an interim final temporary rule to require all municipal advisors to register with it by October 1, 2010, consistent with the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/08/10	75 FR 54465
Interim Final Rule Effective	10/01/10	
Interim Final Rule Comment Period End	10/08/10	
Interim Final Rule Effective Through	12/31/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Ira Brandriss, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549
Phone: 202 551–5681
Email: brandrissi@sec.gov

RIN: 3235–AK69

624. CONSOLIDATED AUDIT TRAIL

Legal Authority: 15 USC 78k–1(a); 15 USC 78q(a)

Abstract: The Commission proposed a rule that would require national securities exchanges and national securities associations to act jointly in developed a national market system (''NMS'') plan to develop, implement, and maintain a consolidated order tracking system, or consolidated audit trail, with respect to the trading of NMS securities.

Timetable:

Action	Date	FR Cite
NPRM	06/08/10	75 FR 32556
NPRM Comment Period End	08/09/10	
Final Action	03/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jennifer L. Colihan, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549
Phone: 202 551–5642
Email: colihanj@sec.gov

RIN: 3235–AK51

625. PROPOSED RULES FOR NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS

Legal Authority: 15 USC 78o–7; 15 USC 89q

Abstract: The Commission proposed rule amendments and a new rule that would require nationally recognized statistical rating organizations (''NRSROs'') to furnish a new annual report by the firm's designated compliance officers, to disclose additional information about firm sources of revenue, and to make publicly available a consolidated report about revenues attributable to persons paying the NRSRO for the issuance or maintenance of a credit rating.

Timetable:

Action	Date	FR Cite
NPRM	06/25/08	73 FR 36212
NPRM Comment Period End	07/25/08	
Final Rule	02/09/09	74 FR 6465
Second NPRM	02/09/09	74 FR 6485
Second NPRM Comment Period End	03/26/09	
Final Rule	12/04/09	74 FR 63832
Final Rule Effective	02/01/10	
Third NPRM	12/04/09	74 FR 63866
Third NPRM Comment Period End	02/02/10	
Final Action	07/00/11	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Sheila Swartz, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549
Phone: 202 551–5545
Fax: 202 772–9273
Email: swarts@sec.gov

RIN: 3235–AK14

Securities and Exchange Commission (SEC) **Long-Term Actions**
Division of Trading and Markets

626. CONFIRMATION OF TRANSACTIONS IN OPEN–END MANAGEMENT INVESTMENT COMPANY SHARES, UNIT INVESTMENT TRUST INTERESTS, AND MUNICIPAL FUND SECURITIES USED FOR EDUCATION SAVINGS

Legal Authority: 15 USC 78j; 15 USC 78k; 15 USC 78o; 15 USC 78q; 15 USC 78w(a); 15 USC 78mm

Abstract: The Commission proposed new Rule 15c2-2 under the Exchange Act, together with accompanying Schedule 15C. The Commission also proposed related amendments to Rule 10b-10. Proposed Rule 15c2-2 and Schedule 15C would provide for improved confirmation disclosure of distribution costs and conflicts of interest associated with transactions in mutual funds, municipal fund securities, and unit investment trusts. The amendments to Rule 10b-10 in part would reflect the new rule and would provide improved confirmation disclosure about certain callable securities. They also would clarify that the confirmation disclosure requirements do not determine broker-dealer disclosure obligations under other provisions of the law.

Timetable:

Action	Date	FR Cite
NPRM	02/10/04	69 FR 6438
NPRM Comment Period End	04/12/04	
NPRM Comment Period Extended	03/04/05	70 FR 10521
NPRM Comment Period End	04/04/05	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Alicia Goldin, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549
Phone: 202 551–5618
Fax: 202 772–9270
Email: goldina@sec.gov

RIN: 3235–AJ11

627. POINT–OF–SALE DISCLOSURE OF PURCHASES IN OPEN–END MANAGEMENT INVESTMENT COMPANY SHARES, UNIT INVESTMENT TRUST INTERESTS, AND MUNICIPAL FUND SECURITIES USED FOR EDUCATION SAVINGS

Legal Authority: 15 USC 78j; 15 USC 78k; 15 USC 78o; 15 USC 78q; 15 USC 78w(a); 15 USC 78mm

Abstract: The Commission proposed new Rule 15c2-3 under the Exchange Act, together with accompanying Schedule 15D. Proposed Rule 15c2-3 and Schedule 15D would provide for pre-transaction ''point of sale'' disclosure of distribution costs and conflicts of interest associated with transactions in mutual funds, municipal fund securities, and unit investment trusts.

Timetable:

Action	Date	FR Cite
NPRM	02/10/04	69 FR 6438
NPRM Comment Period End	04/12/04	
NPRM Comment Period Extended	03/04/05	70 FR 10521
NPRM Comment Period End	04/04/05	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Alicia Goldin, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549
Phone: 202 551–5618
Fax: 202 772–9270
Email: goldina@sec.gov

RIN: 3235–AJ12

628. RULE 15C–100: SCHEDULE 15C

Legal Authority: 15 USC 78j; 15 USC 78k; 15 USC 78o; 15 USC 78q; 15 USC 78w(a); 15 USC 78mm

Abstract: The Commission proposed new Schedule 15C and Rules 15c2-2 and 15c2-3 under the Exchange Act, together with accompanying Schedule 15D. The Commission also proposed related amendments to Rule 10b-10. Proposed Rules 15c2-2 and 15c2-3 and Schedules 15C and 15D would provide for improved confirmation and pre-transaction ''point of sale'' disclosure of distribution costs and conflicts of interest associated with transactions in mutual funds, municipal fund securities, and unit investment trusts. The amendments to Rule 10b-10 in part would reflect the new rules and would provide improved confirmation disclosure about certain callable securities. They also would clarify that the confirmation disclosure requirements do not determine broker-dealer disclosure obligations under other provisions of the law.

Timetable:

Action	Date	FR Cite
NPRM	02/10/04	69 FR 6438
NPRM Comment Period End	04/12/04	
NPRM Comment Period Extended	03/04/05	70 FR 10521
NPRM Comment Period End	04/04/05	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Alicia Goldin, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549
Phone: 202 551–5618
Fax: 202 772–9270
Email: goldina@sec.gov

RIN: 3235–AJ13

629. RULE 15C–101: SCHEDULE 15D

Legal Authority: 15 USC 78j; 15 USC 78k; 15 USC 78o; 15 USC 78q; 15 USC 78w(a); 15 USC 78mm

Abstract: The Commission proposed new Rule 15c2-3 under the Exchange Act, together with accompanying Schedule 15D. Proposed Rule 15c2-3 and Schedule 15D would provide for pre-transaction ''point of sale'' disclosure of distribution costs and conflicts of interest associated with transactions in mutual funds, municipal fund securities, and unit investment trusts.

Timetable:

Action	Date	FR Cite
NPRM	02/10/04	69 FR 6438
NPRM Comment Period End	04/12/04	
NPRM Comment Period Extended	03/04/05	70 FR 10521
NPRM Comment Period End	04/04/05	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Alicia Goldin, Division of Trading and Markets,

SEC—Division of Trading and Markets — Long-Term Actions

Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549
Phone: 202 551–5618
Fax: 202 772–9270
Email: goldina@sec.gov

RIN: 3235–AJ14

630. PROCESSING OF REORGANIZATION EVENTS, TENDER OFFERS, AND EXCHANGE OFFERS

Legal Authority: 15 USC 78b; 15 USC 78k–1(a)(1)(B); 15 USC 78n(d)(4); 15 USC 78o(c)(3); 15 USC 78o(c)(6); 15 USC 78q–1(a); 15 USC 78q–1(d)(1); 15 USC 78w(a)

Abstract: The Commission proposed amendments to Rule 17Ad-14 under the Exchange Act. The amendments would require the establishment of book-entry accounts in connection with reorganization events and would give securities depositories up to 3 business days after the expiration of a tender offer, exchange offer, or reorganization event to deliver physical securities certificates to the agents.

Timetable:

Action	Date	FR Cite
NPRM	09/04/98	63 FR 47209
NPRM Comment Period End	11/03/98	

Next Action Undetermined

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jerry Carpenter, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549
Phone: 202 551–5710
Fax: 202 772–9270
Email: carpenterj@sec.gov

RIN: 3235–AH53

Securities and Exchange Commission (SEC) Division of Trading and Markets — Completed Actions

631. AMENDMENT TO MUNICIPAL SECURITIES DISCLOSURE

Legal Authority: 15 USC 78b; 15 USC 78c(b); 15 USC 78j; 15 USC 78o(c); 15 USC 78o–4; 15 USC 78q; 15 USC 78w(a)(1)

Abstract: The Commission amended Rule 15c2-12 under section 15 of the Exchange Act to improve the system of provided interpretive guidance for the municipal securities markets that would reflect changes in that market.

Timetable:

Action	Date	FR Cite
NPRM	07/24/09	74 FR 36832
NPRM Comment Period End	09/08/09	
Final Action	06/01/10	75 FR 33100
Final Action Effective	08/09/10	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Martha Mahan Haines, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549
Phone: 202 551–5681
Fax: 703 772–9274
Email: hainesm@sec.gov

RIN: 3235–AJ66

[FR Doc. 2010–30469 Filed 12–17–10; 8:45 am]

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H.R. 4387/P.L. 111–297

To designate the Federal building located at 100 North Palafox Street in Pensacola, Florida, as the ''Winston E. Arnow Federal Building''. (Dec. 14, 2010; 124 Stat. 3267)

H.R. 5651/P.L. 111–298

To designate the Federal building and United States courthouse located at 515 9th Street in Rapid City, South Dakota, as the ''Andrew W. Bogue Federal Building and United States Courthouse''. (Dec. 14, 2010; 124 Stat. 3268)

H.R. 5706/P.L. 111–299

To designate the building occupied by the Government Printing Office located at 31451 East United Avenue in Pueblo, Colorado, as the ''Frank Evans Government Printing Office Building''. (Dec. 14, 2010; 124 Stat. 3269)

H.R. 5758/P.L. 111–300

To designate the facility of the United States Postal Service located at 2 Government Center in Fall River, Massachusetts, as the ''Sergeant Robert Barrett Post Office Building''. (Dec. 14, 2010; 124 Stat. 3270)

H.R. 5773/P.L. 111–301

To designate the Federal building located at 6401 Security Boulevard in Baltimore, Maryland, commonly known as the Social Security Administration Operations Building, as the ''Robert M. Ball Federal Building''. (Dec. 14, 2010; 124 Stat. 3271)

H.R. 6162/P.L. 111–302

Coin Modernization, Oversight, and Continuity Act of 2010 (Dec. 14, 2010; 124 Stat. 3272)

H.R. 6166/P.L. 111–303

American Eagle Palladium Bullion Coin Act of 2010 (Dec. 14, 2010; 124 Stat. 3275)

H.R. 6237/P.L. 111–304

To designate the facility of the United States Postal Service located at 1351 2nd Street in Napa, California, as the ''Tom Kongsgaard Post Office Building''. (Dec. 14, 2010; 124 Stat. 3278)

H.R. 6387/P.L. 111–305

To designate the facility of the United States Postal Service located at 337 West Clark Street in Eureka, California, as the ''Sam Sacco Post Office Building''. (Dec. 14, 2010; 124 Stat. 3279)

S. 1338/P.L. 111–306

To require the accreditation of English language training programs, and for other purposes. (Dec. 14, 2010; 124 Stat. 3280)

S. 1421/P.L. 111–307

Asian Carp Prevention and Control Act (Dec. 14, 2010; 124 Stat. 3282)

S. 3250/P.L. 111–308

Federal Buildings Personnel Training Act of 2010 (Dec. 14, 2010; 124 Stat. 3283)

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